MONTANA LEGISLATIVE HISTORY

Chapter 481 19 97

Bill H 164 S _____ Original bill & history ____C

H. Committee on Business & Labor		S. Committee on Business & Industry	
Hearing Date(s) Jan 13	✓ C	Hearing Date(s) Mar 04	✓ C
Jan 22	✓ C	Mar 18	✓ C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out _____	____C		

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Free Conference

Apr 16

1997 LEGISLATIVE HISTORY

The 1997 Montana Legislature has dramatically changed the nature of the legislative minutes. Specifically, the minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are somewhat fuller in content. Exhibits available from the State Law Library (which may include written statements, attendant information, roll call votes, roll call attendance, a list of public members present, specific action taken on legislative bills, etc.) are included with this request. For information on other exhibits, contact the Montana Historical Society Archives at 444-4774. Exhibits may also be purchased on a CD-ROM from the Montana Legislative Council (444-3064).

Just as in the 1995 legislative session, the House and Senate hearings were recorded. The Historical Society is the depository for the tapes. For information on accessing the tapes, call the archives at 444-4774.

If you have concerns over the format of the 1997 legislative minutes, it is suggested that you contact your state legislators.

4/24	SIGNED BY SPEAKER		
4/24	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
5/02	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 480		
	EFFECTIVE DATE: 10/01/97—SECTIONS 1-18, 27, 39-59, 61-64, 66, 69-74 & 76-177		
	EFFECTIVE DATE: 10/01/98—SECTIONS 19-26, 28-38, 60, 65, 67, 68 & 75		

HB 164 INTRODUCED BY TUSS *LC0209 DRAFTER: MALY*

REVISE OCCUPATIONAL LICENSING LAWS, INCLUDING THOSE RELATED TO HEARING AID DISPENSERS, DENTISTS, BARBERS, PHYSICAL THERAPISTS, NATUROPATHIC PHYSICIANS, REAL ESTATE APPRAISERS, PRIVATE INVESTIGATORS, FIRE PROTECTION EQUIPMENT INSTALLERS, FIRE SUPPRESSION SYSTEM INSTALLERS, CRANE AND HOIST OPERATORS, AND LICENSED PROFESSIONS AND OCCUPATIONS WITHOUT BOARDS

BY REQUEST OF DEPARTMENT OF COMMERCE

1/01	INTRODUCED		
1/03	FISCAL NOTE REQUESTED		
1/06	FIRST READING		
1/06	REFERRED TO BUSINESS & LABOR		
1/10	FISCAL NOTE RECEIVED		
1/11	FISCAL NOTE PRINTED		
1/13	HEARING		
1/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/25	2ND READING PASSED AS AMENDED	95	3
1/28	3RD READING PASSED	94	5
	TRANSMITTED TO SENATE		
1/29	FIRST READING		
1/29	REFERRED TO BUSINESS & INDUSTRY		
3/04	HEARING		
3/19	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/22	2ND READING CONCURRED	49	0
3/24	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS NOT CONCURRED	100	0
4/09	FREE CONFERENCE COMMITTEE APPOINTED		
4/16	HEARING		
4/16	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/17	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	89	11
4/18	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	88	11
	SENATE		
4/10	FREE CONFERENCE COMMITTEE APPOINTED		
4/17	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/17	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	47	0
4/18	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	48	1
4/24	SIGNED BY SPEAKER		
4/24	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
5/01	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 481		
	EFFECTIVE DATE: 10/01/97		

HOUSE BILL NO. 164

INTRODUCED BY TUSS

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING OCCUPATIONAL LICENSING LAWS, INCLUDING THOSE RELATED TO HEARING AID DISPENSERS, DENTISTS, PHYSICAL THERAPISTS, NATUROPATHIC PHYSICIANS, REAL ESTATE APPRAISERS, PRIVATE INVESTIGATORS, ELECTRICIANS, FIRE SUPPRESSION SYSTEM INSTALLERS, CRANE AND HOIST OPERATORS, AND LICENSED PROFESSIONS AND OCCUPATIONS WITHOUT BOARDS; AMENDING SECTIONS 2-15-1842, 2-15-1850, 37-4-202, 37-11-201, 37-11-303, 37-16-202, 37-16-303, 37-16-304, 37-16-405, 37-16-407, 37-26-201, 37-26-301, 37-54-102, 37-54-105, 37-54-201, 37-54-202, 37-54-210, 37-54-211, 37-54-301, 37-54-304, 37-54-305, 37-54-311, 37-60-303, 37-65-202, 37-68-102, 37-68-103, 50-76-103, AND 50-76-104, MCA; AND REPEALING SECTIONS 37-54-203, 50-39-104, 50-74-314, 50-76-106, 76-4-1201, 76-4-1202, 76-4-1203, 76-4-1204, 76-4-1205, 76-4-1206, 76-4-1207, 76-4-1208, 76-4-1209, 76-4-1210, 76-4-1211, 76-4-1212, 76-4-1213, 76-4-1221, 76-4-1222, 76-4-1223, 76-4-1224, 76-4-1225, 76-4-1226, 76-4-1227, 76-4-1228, 76-4-1229, 76-4-1230, 76-4-1231, 76-4-1232, 76-4-1233, 76-4-1234, 76-4-1235, 76-4-1236, 76-4-1237, 76-4-1238, 76-4-1239, 76-4-1240, 76-4-1241, 76-4-1242, 76-4-1243, 76-4-1244, 76-4-1245, 76-4-1246, 76-4-1247, 76-4-1248, 76-4-1249, 76-4-1250, AND 76-4-1251, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because it delegates rulemaking to the identified licensing boards of the department of commerce to adopt rules to implement the provisions of 37-11-201 and 37-11-303, which allow on-demand computerized testing for physical therapist and physical therapist assistant applicants; 37-26-201 and 37-26-301, which allow the creation of a formulary by an alternative health care formulary committee to identify the substances that may be prescribed by a licensed naturopathic physician; the provisions that reconcile Title 37, chapter 54, with the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and the related requirements of financial institution regulatory agencies; and [sections 40 and 41], 50-76-103, and 50-76-104, which govern the licensure of crane and hoist operators.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Uniform regulation for licensing programs without boards -- definitions.** As used in [sections 1 through 12], the following definitions apply:

(1) "Complaint" means a written allegation filed with the department that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(2) "Department" means the department of commerce provided for in 2-15-1801.

(3) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a complaint or other information before the department, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the department;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether the department should seek an injunction.

(4) "License" means permission in the form of a license, permit, endorsement, certificate, recognition, or registration granted by the state of Montana to engage in a business activity or practice at a specific level in a profession or occupation governed by Title 50, chapter 39, 74, or 76.

(5) "Profession" or "occupation" means a profession or occupation regulated by the department under the provisions of Title 50, chapter 39, 74, or 76.

NEW SECTION. **Section 2. Unprofessional conduct -- complaint -- investigation -- immunity.** (1) A person, government, or private entity may submit a written complaint to the department charging a licensee or license applicant with a violation of [sections 1 through 12] and specifying the grounds for the complaint.

(2) If the department receives a written complaint or otherwise obtains information that a licensee or license applicant may have violated a requirement of [sections 1 through 12], the department may investigate to determine whether there is reasonable cause to believe that the licensee or license applicant has committed the violation.

(3) A person or private entity, but not a government entity, filing a complaint under this section in good faith is immune from suit in a civil action related to the filing or contents of the complaint.

NEW SECTION. **Section 3. Notice -- request for hearing.** (1) If the department determines that reasonable cause exists supporting the allegation made in a complaint, the department legal staff shall prepare a notice and serve the alleged violator. The notice may be served by certified mail to the current address on file with the department or by other means authorized by the Montana Rules of Civil Procedure.

(2) A licensee or license applicant shall give the department the licensee's or applicant's current address and any change of address within 30 days of the change.

(3) The notice must state that the licensee or license applicant may request a hearing to contest the charge or charges. A request for a hearing must be in writing and must be received in the offices of the department within 20 days after the licensee's receipt of the notice. Failure to request a hearing constitutes a default on the charge or charges, and the department may enter a decision on the basis of the facts available to it.

NEW SECTION. **Section 4. Hearing -- adjudicative procedures.** The procedures in Title 2, chapter 4, governing adjudicative proceedings before agencies, the Montana Rules of Civil Procedure, and the Montana Rules of Evidence govern a hearing under [sections 1 through 12]. The department has all the powers and duties granted by Title 2, chapter 4.

NEW SECTION. **Section 5. Findings of fact -- order -- report.** (1) If the department finds by a preponderance of the evidence, following a hearing or on default, that a violation of [sections 1 through 12] has occurred, the department shall prepare and serve findings of fact, conclusions of law, and an order as provided in Title 2, chapter 4. If the licensee or license applicant is found not to have violated [sections 1 through 12], the department shall prepare and serve an order of dismissal of the charges.

(2) The department may report the issuance of a notice and final order to:

(a) the person or entity who brought to the department's attention information that resulted in the initiation of the proceeding;

(b) appropriate public and private organizations that serve the profession or occupation; and

(c) the public.

NEW SECTION. **Section 6. Sanctions -- stay -- costs -- stipulations.** (1) Upon a decision that a licensee or license applicant has violated [sections 1 through 12] or is unable to practice with reasonable

skill and safety due to a physical or mental condition or upon stipulation of the parties as provided in subsection (4), the department may issue an order providing for one or any combination of the following sanctions:

(a) revocation of the license;

(b) suspension of the license for a fixed or indefinite term;

(c) restriction or limitation of the practice;

(d) satisfactory completion of a specific program of remedial education or treatment;

(e) monitoring of the practice by a supervisor approved by the disciplining authority;

(f) censure or reprimand, either public or private;

(g) compliance with conditions of probation for a designated period of time;

(h) payment of a fine not to exceed $1,000 for each violation;

(i) denial of a license application;

(j) refund of costs and fees billed to and collected from a consumer.

(2) Any fine collected by the department as a result of disciplinary actions must be deposited in the state general fund.

(3) A sanction may be totally or partly stayed by the department. To determine which sanctions are appropriate, the department shall first consider the sanctions that are necessary to protect or compensate the public. Only after the determination has been made may the department consider and include in the order any requirements designed to rehabilitate the licensee or license applicant.

(4) The licensee or license applicant may enter into a stipulated agreement resolving potential or pending charges that includes one or more of the sanctions in this section. The stipulation is an informal disposition for the purposes of 2-4-603.

(5) A licensee shall surrender a suspended or revoked license to the department within 24 hours after receiving notification of the suspension or revocation by mailing the license or delivering it personally to the department.

NEW SECTION. **Section 7. Appeal.** A person who is disciplined or denied a license may appeal the decision to the district court as provided in Title 2, chapter 4.

NEW SECTION. **Section 8. Reinstatement.** A licensee whose license has been suspended or

revoked under [sections 1 through 12] may petition the department for reinstatement after an interval set by the department in the order. The department may hold a hearing on the petition and may deny the petition or order reinstatement and impose terms and conditions as provided in 37-1-312. The department may require the successful completion of an examination as a condition of reinstatement and may treat a licensee whose license has been revoked or suspended as a new applicant for purposes of establishing the requisite qualifications of licensure.

NEW SECTION. **Section 9. Enforcement of fine.** (1) If payment of a fine is included in an order and timely payment is not made as directed in the order, the department may enforce the order for payment in the district court of the first judicial district.

(2) In a proceeding for enforcement of an order of payment of a fine, the order is conclusive proof of the validity of the order of payment and the terms of payment.

NEW SECTION. **Section 10. Unprofessional conduct.** The following is unprofessional conduct for a licensee or license applicant governed by this chapter:

(1) being convicted, including a conviction following a plea of nolo contendere and regardless of a pending appeal, of a crime relating to or committed during the course of practicing the person's profession or occupation or involving violence, the use or sale of drugs, fraud, deceit, or theft;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) making a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) the denial, suspension, revocation, probation, fine, or other license restriction or discipline

against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal or under judicial review or has been satisfied.

(8) failure to comply with a term, condition, or limitation of a license by final order of the department;

(9) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(10) misappropriating property or funds from a client or workplace or failing to comply with the department's rule regarding the accounting and distribution of a client's property or funds;

(11) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, failure to respond to department inquiries regarding a complaint against the licensee or license applicant, or the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action or use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(12) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice the profession or occupation by use of the licensee's license.

NEW SECTION. **Section 11. Practice without license -- investigation of complaint -- injunction -- penalties.** (1) The department may investigate a complaint concerning practice by an unlicensed person of a profession or occupation governed by [sections 1 through 12].

(2) The department may file an action to enjoin a person from practicing, without a license, a profession or occupation governed by [sections 1 through 12].

NEW SECTION. **Section 12. Violation of injunction -- penalty.** A person who violates an injunction issued pursuant to a proceeding under [sections 1 through 12] shall pay a civil penalty, as determined by the court, of not more that $5,000. Fifty percent of the penalty must be deposited in the general fund of the county in which the injunction is issued, and 50% must be deposited in the state general fund.

Section 13. Section 2-15-1842, MCA, is amended to read:

"**2-15-1842. Board of dentistry.** (1) There is a board of dentistry.

(2) ~~(a)~~ The board consists of five dentists, ~~one of whom shall serve as a nonvoting member,~~ one denturist, ~~one~~ two dental ~~hygienist~~ hygienists, and two public members, one of whom must be a senior citizen. All members are appointed by the governor with the consent of the senate. Each licensed member ~~shall~~ must be licensed to practice as a dentist, denturist, or dental hygienist in this state, ~~shall~~ must have actively practiced in this state for at least 5 continuous years immediately before ~~his~~ the member's appointment, ~~except as provided in subsection (2)(b),~~ and ~~shall~~ must be actively engaged in practice while serving on the board. Each member ~~shall~~ must be a resident of this state.

~~(b) The provision in subsection (2)(a) requiring a licensed member to have actively practiced in this state for at least 5 continuous years immediately before his appointment does not apply to the first denturist appointed to the board.~~

(3) Each member shall serve for a term of 5 years. ~~Each dentist appointed to the board for a statutory 5-year term shall serve the first year of the term as a nonvoting member of the board.~~ The governor may remove a member only for neglect or cause.

(4) The governor shall fill any vacancy within 30 days.

(5) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 14. Section 2-15-1850, MCA, is amended to read:

"**2-15-1850. Board of hearing aid dispensers.** (1) There is a board of hearing aid dispensers.

(2) The board consists of ~~five~~ seven members appointed by the governor with the consent of the senate. The members are:

(a) one member who shall hold or be eligible for a certificate of qualification from the American board of otolaryngology;

(b) ~~three members who have been licensed dispensers and fitters of hearing aids for at least 5 years before their appointment to the board~~ two members, each of whom has been a licensed hearing aid dispenser for at least five years, possesses national certification in audiology, and has a master's level college degree;

(c) ~~one public member who is not in the hearing health care field~~ two members, each of whom does not hold a master's level college degree in audiology but has been a licensed dispenser and fitter of hearing aids for at least 5 years before being appointed to the board;

(d) two public members, each of whom is not in the hearing health field and one of whom regularly uses a hearing aid because the person has a demonstrated hearing impairment.

(3) Each member shall serve for a term of 3 years. A member may not be reappointed within 1 year after the expiration of ~~his~~ the member's second consecutive full term.

(4) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 15. Section 37-4-202, MCA, is amended to read:

"**37-4-202. Meetings -- notice -- quorum -- records.** (1) The board shall meet at least once each year in this state at the call of the president and secretary-treasurer. Five days' notice must be given by the department to board members of the time and place of the meeting of the board.

(2) Meetings held for the purpose of examining candidates for a license to practice dentistry in this state may not exceed 6 days.

(3) ~~Five~~ Six members of the board constitute a quorum for the transaction of business. Its proceedings are open to public inspection in cases of public interest.

(4) Money collected by the department under this chapter ~~shall~~ must be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).

(5) The department shall keep a complete record of meetings and proceedings of the board and shall keep a complete account of ~~moneys~~ money received and disbursements made by the department."

Section 16. Section 37-11-201, MCA, is amended to read:

"**37-11-201. General powers -- rulemaking power -- records.** (1) The board may:

(a) adopt rules to carry this chapter into effect;

(b) grant, suspend, and revoke licenses;

(c) issue subpoenas requiring the attendance of witnesses or the production of books and papers;

(d) take any other disciplinary action necessary to protect the public.

(2) The board shall:

(a) examine applicants for licenses ~~three times a year~~ at reasonable places and times determined by the board;

(b) review the qualifications of applicants who are approved for examination for licensure;

(c) conduct written or computerized examinations that measure the qualifications of individual applicants along with any oral or practical examinations when determined by the board to be appropriate; and

(d) adopt rules to establish continuing education requirements of at least 20 hours biennially for license renewal for physical therapists and assistants.

(3) The department shall keep a record of the board's proceedings under this chapter and a register of persons licensed under it. The register must show the name of every licensed physical therapist and licensed assistant, the therapist's or assistant's last-known place of business and last-known place of residence, and the date of issue and the number of every license and certificate issued to a licensed physical therapist or licensed assistant.

(4) The department shall, during the month of April every year in which the renewal of licenses is required, compile a list of licensed physical therapists authorized to practice physical therapy in the state and shall mail, upon request, a copy of that list to the superintendent of every known hospital and every person licensed to practice medicine and surgery in the state. An interested person in the state is entitled to obtain a copy of the list on application to the department and payment of an amount not in excess of the cost of the list.

(5) The department may change addresses and surnames on the licensee's records only on the specific written request by the individual licensee."

Section 17. Section 37-11-303, MCA, is amended to read:

"**37-11-303. Qualifications of applicants for license.** (1) To be eligible for a license as a physical therapist, an applicant must:

(a) be of good moral character and at least 18 years of age;

(b) have graduated from an accredited school of physical therapy approved by the board; and

(c) pass to the satisfaction of the board a written or computerized examination prescribed by the board and, if considered necessary, an oral interview to determine the fitness of the applicant to practice as a physical therapist.

(2) To be eligible for a physical therapist assistant license, an applicant must:

(a) be of good moral character and at least 18 years of age;

(b) have graduated from an accredited physical therapist assistant curriculum approved by the

board; and

(c) have passed a written or computerized examination prescribed by the board."

Section 18. Section 37-16-202, MCA, is amended to read:

"**37-16-202. Powers and duties.** The powers and duties of the board are to:

(1) license persons and corporations or other business entities who apply and are qualified to practice the fitting of hearing aids;

(2) establish a procedure to act as a grievance board to initiate or receive, investigate, and mediate complaints from any source concerning the activities of persons, corporations, or other business entities licensed under this chapter or their agents, whether licensed or not;

(3) suspend or revoke licenses under this chapter;

(4) designate the time and place for examining applicants for license and supervise and administer the examination;

(5) adopt rules necessary to carry out this chapter;

(6) require the periodic inspection and calibration of audiometric testing equipment and carry out periodic inspections of facilities of persons, corporations, or other business entities who practice or engage in the business of ~~the~~ fitting or selling ~~of~~ hearing aids;

(7) prepare examinations required by the chapter;

(8) initiate legal action to enjoin from operation a person, ~~or~~ corporation, or other business entity engaged in the sale, dispensing, or fitting of hearing aids in this state ~~who~~ that is not licensed under this chapter;

(9) adopt rules consistent with the provisions of 37-16-301, 37-16-303, 37-16-304, 37-16-402, 37-16-403, 37-16-405, 37-16-407, 37-16-408, and 37-16-411. Rules adopted by the board may include but are not limited to rules defining the term "related devices" and other rules necessary to implement 37-16-301, 37-16-303, 37-16-304, 37-16-402, 37-16-403, 37-16-405, 37-16-407, 37-16-408, and 37-16-411.

(10) establish and adopt minimum requirements for the form of bills of sale and receipts."

Section 19. Section 37-16-303, MCA, is amended to read:

"**37-16-303. Bill of sale -- ~~examination by otolaryngologist -- notation on receipt that examination~~**

~~not medical opinion~~ **medical evaluation requirements -- waiver.** (1) Any person, corporation, or business entity ~~who~~ that practices the selling, fitting, or dispensing of hearing aids and related devices shall, upon the sale of a hearing aid or related device, deliver to ~~each person supplied with a hearing aid or related device, by him or at his order or direction,~~ the customer a bill of sale that must contain:

(a) the seller's signature~~,~~ and license number and the name and address of ~~his~~ the seller's permanent place of business~~, and the number of his license~~;

(b) a description of the make and type of the hearing aid or related device furnished and the amount charged;

(c) any warranty or guaranty and the right to cancel, and the terms of the warranty or guaranty and the right to cancel;

(d) the condition of the hearing aid or related device and whether it is new, used, or reconditioned; ~~and~~

(e) a provision that maintenance service for the hearing aid or related device is available; and

(f) the following statement, in boldface, 12-point type: "If you have any questions regarding your consumer rights with respect to hearing aids and related devices, contact the state Board of Hearing Aid Dispensers." The statement must also list the current telephone number and address of the board's office.

(2) (a) ~~Any person practicing the selling, dispensing, or fitting of hearing aids and related devices shall, if dealing with a person under 19 years of age, ascertain if the person has been examined by an otolaryngologist within 90 days prior to the fitting and shall obtain the otolaryngologist's recommendations. If the person has not been examined, the licensed hearing aid dispenser shall recommend to the parent or guardian or to the person if emancipated that he have a medical examination. The licensed hearing aid dispenser shall issue a separate receipt, signed by the purchaser, indicating that the hearing aid dispenser made this recommendation.~~

~~(b) Any person practicing the selling, dispensing, or fitting of hearing aids and related devices shall, if the aid or device is to be purchased with state funds, ascertain if the person has been examined by a licensed physician within 90 days prior to the fitting and shall obtain the licensed physician's recommendations. If the person has not been examined, the licensed hearing aid dispenser shall recommend to the person being fitted that he have a medical examination. The licensed hearing aid dispenser shall issue a separate receipt, signed by the purchaser, indicating that the hearing aid dispenser made this recommendation~~ Except as provided in subsection (2)(b), a hearing aid dispenser may not sell a hearing aid

to a person unless the person has presented to the hearing aid dispenser a written statement signed by a licensed physician within the previous 6 months that states that the person's hearing loss has been medically evaluated and that the person may benefit from a hearing aid.

(b) If the prospective hearing aid purchaser is 18 years of age or older, the hearing aid dispenser may give that person the opportunity to waive the requirements of subsection (2)(a) in accordance with the disclosure, waiver form, and instructional brochure requirements of the U.S. food and drug administration regulations found at 42 CFR 801.420 and 42 CFR 801.421.

~~(3) A separate receipt issued under subsection (2) must bear, in no smaller type than the largest used in the body portion, the following: "Any examination(s) or representation(s) made by a licensed hearing aid dispenser in connection with the dispensing, fitting, and selling of this hearing aid(s) or device is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and, therefore, must not be regarded as medical opinion or advice."~~

~~(4) The board may establish and adopt minimum requirements for the form of bills of sale and receipts.~~

~~(5) All purchase agreements or bills of sale must prominently display the following statement: "If you have any questions regarding your consumer rights with respect to hearing aids and related devices, please contact the Department of Commerce -- Board of Hearing Aid Dispensers."~~"

Section 20. Section 37-16-304, MCA, is amended to read:

"**37-16-304. Right to cancel -- return of hearing aid or related device -- notice -- refund.** (1) A purchaser of a hearing aid or related device may, for any reason, cancel the sale within 30 days of the date of delivery of the hearing aid or related device ~~if:~~

~~(a) the hearing aid or related device is defective in fit or function; or~~

~~(b) a licensed hearing aid dispenser has failed to correct a problem in fit or function.~~

~~(2) (a) If a purchaser cancels the sale of a hearing aid or related device for a reason provided in subsection (1), he shall provide~~ by providing written notice to the establishment that employed the licensed hearing aid dispenser at the time the hearing aid was purchased ~~seller~~ indicating ~~his~~ the purchaser's intention not to be bound by the sale contract. The purchaser shall ~~also~~ return or hold for the licensed hearing aid dispenser's disposal the hearing aid or related device in substantially the same condition as it was received by the purchaser.

~~(b)~~(2) For the purpose of determining whether cancellation has occurred within 30 days of the date of delivery, written notice:

~~(i)~~(a) given by mail is considered given on the date mailed; and

~~(ii)~~(b) delivered in person is considered given when delivered to the hearing aid dispenser's permanent place of business.

(3) A licensed hearing aid dispenser shall refund to the purchaser the amount paid for the hearing aid or related device minus the dispensing fee within ~~30~~ 10 days of receipt of written notice of cancellation. For the purposes of this section, the dispensing fee may not exceed ~~20%~~ 10% of the total cost of the hearing aid or related device, less credit given for trade-in. The licensed hearing aid dispenser shall also return any goods traded in contemplation of the sale, less any costs incurred by the licensee in making the goods ready for resale.

(4) ~~All sales receipts for refunds issued by the seller of a hearing aid or related device must contain a statement of the reason for the cancellation.~~ A licensed hearing aid dispenser may not sell a hearing aid in this state unless the seller provides the buyer with written notice of the 30-day trial period and money-back guarantee.

(5) If the hearing aid must be repaired, remade, or adjusted during the 30-day trial period, the running of the 30-day period must be suspended for each day that the hearing aid is not in the purchaser's possession. The provisions of this subsection may not be waived."

Section 21. Section 37-16-405, MCA, is amended to read:

"**37-16-405. Trainee license.** (1) An applicant who fulfills the requirements of 37-16-402 and who has not previously applied to take the practical examination under 37-16-403 may apply to the board for a trainee license.

(2) On receiving an application under subsection (1), accompanied by a fee fixed by the board and commensurate with the cost of administering the license and related functions of the board and verification that the applicant has passed the written portion of the examination with a passing score ~~of at least 70%,~~ as determined by board rule, the board shall issue a trainee license that entitles the applicant to engage in a 180-day training period during which the applicant:

(a) is required to pass the practical examination administered by the board before being issued a hearing aid dispenser's license; and

(b) shall work under the direct supervision of the sponsoring licensed hearing aid dispenser. During this time the applicant may do the testing necessary for proper selection and fitting of hearing aids and related devices and make necessary impressions. However, the delivery and final fitting of the hearing aid and related devices must be made by the trainee and the supervisor.

(3) The training period must consist of a continuous 180-day term. Any break in training requires application for another trainee license under rules that the board may prescribe.

(4) A trainee license may not be issued unless the board has on file an unrevoked statement from a qualified licensed hearing aid dispenser accepting responsibility for the trainee. Every licensed hearing aid dispenser supervising a trainee license holder ~~must~~ shall submit a report every 90 days of the trainee's activities and training assignments, on forms furnished by the board. The supervisor is responsible for all hearing aid fittings of the trainee. A supervisor may terminate any responsibilities to the trainee by mailing by certified mail written notice to the board and the trainee.

(5) (a) If a person who holds a trainee license takes and fails to pass the practical examination during the training period, the board may authorize the department to renew the trainee license for a period of 180 days, during which the provisions of subsection (2)(b) apply. In no event may more than one renewal be permitted.

(b) The fee for renewal must be set by the board commensurate with the cost of administering the license and related functions of the board.

(6) A person licensed as an audiologist under the provisions of Title 37, chapter 15, or a person practicing pursuant to 37-1-305 is exempt from the 180-day training period but is required to pass the examinations prescribed in this chapter.

(7) A licensed hearing aid dispenser who sponsors a trainee is directly responsible and accountable under the disciplinary authority of the board for the conduct of the trainee as if the conduct were the licensee's own.

(8) For the purposes of this section, "direct supervision" means the direct and regular observation and instruction of a trainee by a licensed hearing aid dispenser who is available at the same location for prompt consultation and treatment."

Section 22. Section 37-16-407, MCA, is amended to read:

"**37-16-407. Renewal of license -- fee -- inactive status.** (1) A person, corporation, or other

business entity ~~who~~ that practices the fitting of hearing aids and related devices shall annually pay to the department a fee as set by the board for a renewal of the person's, corporation's, or business entity's license. The fee must be fixed by the board to be commensurate with board costs in administering licensure and related board functions. ~~The fee must be increased 10% for each month or major portion of a month that the payment of the renewal fee is delayed after the expiration date. The maximum fee for a delayed renewal may not exceed twice the normal renewal fee as set by the board. A person applying for renewal whose license was suspended for failure to renew is required to submit to the examinations described in 37-16-403 as a condition of renewal for a 3-year period after suspension~~ The board shall impose a late fee for renewal applications received after the renewal deadline.

(2) Each applicant for license renewal shall submit evidence showing completion of 10 hours of continuing education completed during the preceding 12 months. The requirements of the continuing education programs are to be determined by the board by rule.

(3) (a) The board may set standards and fees for issuing licenses that designate inactive status.

(b) An inactive licensee may be reinstated to active practice if the inactive licensee:

(i) applies for reinstatement;

(ii) pays a fee set by the board; and

(iii) produces proof satisfactory to the board of completion of the continuing education requirements established by the board."

Section 23. Section 37-26-201, MCA, is amended to read:

"**37-26-201. Powers and duties of board.** The board shall:

(1) adopt rules necessary or proper to administer and enforce this chapter;

(2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301, that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are consistent with the education provided by approved naturopathic medical colleges;

(3) adopt rules prescribing the time, place, content, and passing requirements of the licensure examination, which may be composed of part or all of the national naturopathic physicians licensing examination;

(4) adopt rules that endorse equivalent licensure examinations of another state or territory of the United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;

(5) adopt rules that set nonrefundable fees, commensurate with costs, for application, examination, licensure, and other administrative services;

(6) approve naturopathic medical colleges as defined in 37-26-103;

(7) issue certificates of specialty practice; ~~and~~

(8) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited scope of practice of naturopathic medicine, which may exclude the use of minor surgery ~~or the legend drugs~~ allowed under 37-26-301; and

(9) adopt rules that contain the natural substance formulary list created by the alternative health care formulary committee provided for in 37-26-301."

Section 24. Section 37-26-301, MCA, is amended to read:

"**37-26-301. Practice of naturopathic health care -- alternative health care formulary committee.** (1) Naturopathic physicians may practice naturopathic medicine as a limited practice of the healing arts as exempted in 37-3-103(1)(n), with the following restrictions. A naturopathic physician may not:

~~(a) prescribe, dispense, or administer any legend drug as defined in 50-31-301 except for whole gland thyroid; homeopathic preparations; the natural therapeutic substances, drugs, and therapies described in subsection (2); and oxytocin (pitocin), provided that the naturopathic physician may administer but may not prescribe or dispense oxytocin (pitocin);~~

~~(b)~~(a) administer ionizing radioactive substances for therapeutic purposes;

~~(c)~~(b) perform surgical procedures except those minor surgery procedures authorized by this chapter; or

~~(d)~~(c) claim to practice any licensed health care profession or system of treatment other than naturopathic medicine unless holding a separate license in that profession.

(2) Naturopathic physicians may prescribe and administer for preventive and therapeutic purposes the following natural therapeutic substances, drugs, and therapies, as well as drugs on the natural substance formulary list provided for in subsection (3):

(a) food, food extracts, vitamins, minerals, enzymes, whole gland thyroid, botanical medicines, homeopathic preparations, and oxytocin (pitocin);

(b) topical drugs, health care counseling, nutritional counseling and dietary therapy, naturopathic physical applications, therapeutic devices, and nonprescription drugs; and

(c) barrier devices for contraception, naturopathic childbirth attendance, and minor surgery.

(3) A five-member alternative health care formulary committee appointed by the board shall establish a natural substance formulary list. The committee consists of a licensed pharmacist nominated by the Montana pharmaceutical association plus four members of the board, two of whom must be licensed naturopathic physicians, one who must be a licensed medical doctor, and one who must be a public member. The list may not go beyond the scope of substances covered by approved naturopathic college curricula or continuing education and must be reviewed annually by the committee. Changes to the list that are recommended by the committee and accepted by the board must be published as administrative rules.

(4) Naturopathic physicians may perform or order for diagnostic purposes a physical or orificial examination, ultrasound, phlebotomy, clinical laboratory test or examination, physiological function test, and any other noninvasive diagnostic procedure commonly used by physicians in general practice and as authorized by 37-26-201(2).

~~(4)~~(5) Except as provided by this subsection, it is unlawful for a naturopath to engage, directly or indirectly, in the dispensing of any drugs that a naturopath is authorized to prescribe by subsection (2). If the place where a naturopath maintains an office for the practice of naturopathy is more than 10 miles from a place of business that sells and dispenses the drugs a naturopath may prescribe under subsection (2), then, to the extent the drugs are not available within 10 miles of the naturopath's office, the naturopath may sell the drugs that are unavailable."

Section 25. Section 37-54-102, MCA, is amended to read:

"**37-54-102. Definitions.** Terms commonly used in appraisal practice and as used in this chapter must be defined according to the Uniform Standards of Appraisal Practice, as issued by the appraisal foundation. As used in this chapter, unless the context requires otherwise, the following definitions apply:

~~(1) "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of a specified interest in or aspects of identified real estate.~~

~~(2) "Appraisal assignment" means an appraisal classified by the nature of the assignment as:~~

~~(a) a valuation appraisal, which is an analysis, opinion, or conclusion prepared by a real estate appraiser that estimates the value of an identified parcel of real estate or identified real property at a particular point in time;~~

~~(b) an analysis assignment, which is an analysis, opinion, or conclusion prepared by a real estate~~

~~appraiser that relates to the nature, quality, or utility of identified real estate or identified real property; or~~

~~(c) a review assignment, which is an analysis, opinion, or conclusion prepared by a real estate appraiser that forms an opinion as to the adequacy and appropriateness of a valuation appraisal.~~

~~(3)~~(1) "Appraisal foundation" means the appraisal foundation incorporated as an Illinois not-for-profit corporation on November 30, 1987, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 3310, et seq. The purposes of the appraisal foundation are to:

(a) establish and improve uniform appraisal standards by defining, issuing, and promoting those standards;

(b) establish appropriate criteria for the licensure and certification ~~and recertification~~ of qualified appraisers by defining, issuing, and promoting qualification criteria and disseminate the qualification criteria to states and other governmental entities; and

(c) develop or assist in the development of appropriate examinations for qualified appraisers.

~~(4) "Appraisal report" means a written or oral communication of a real estate appraisal. An appraisal report for a federally related transaction must be in writing. An appraisal report may be classified by the nature of the assignment as a "valuation report", an "analysis report", or a "review report". For the purposes of this chapter, testimony of a licensed or certified real estate appraiser dealing with the appraiser's analyses, opinions, or conclusions concerning identified real estate or identified real property is considered an oral appraisal report.~~

~~(5)~~(2) "Board" means the board of real estate appraisers provided for in 2-15-1868.

~~(6) "Certified appraisal report" means an appraisal or appraisal report given or signed and certified by a certified real estate appraiser. When identifying an appraisal or appraisal report as "certified", the certified real estate appraiser shall indicate the class of certification the appraiser holds.~~

~~(7)~~(3) "Certified real estate appraiser" means a person who develops and communicates real estate appraisals and who has a valid real estate appraisal certificate issued under 37-54-305.

~~(8)~~(4) "Department" means the department of commerce provided for in 2-15-1801.

~~(9) "Independent appraisal service" means an engagement for which a person is employed or retained to act, or would be perceived by a third party or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of identified real estate or identified real property.~~

~~(10)~~(5) "Licensed real estate appraiser" means a person who holds a current valid real estate

appraiser license issued under 37-54-201.

~~(11) "Real estate" means an identified parcel or tract of land, including any improvements on the land.~~

~~(12) "Real property" means one or more defined interests, benefits, and rights inherent in the ownership of real estate.~~"

Section 26. Section 37-54-105, MCA, is amended to read:

"**37-54-105. Powers and duties of board.** The board shall:

(1) adopt rules to implement and administer the provisions of this chapter;

(2) establish and collect fees commensurate with the costs of licensure and certification and renewal of a license or certificate;

~~(3) make available application forms for licensure and certification within 15 days of the first meeting of the board;~~

~~(4)~~(3) establish minimum requirements for education, experience, and examination for licensure and certification as set out by the appraisal qualification board of the appraisal foundation;

~~(5)~~(4) receive applications for examination from qualified applicants, prescribe and administer examinations to qualified applicants, and determine the acceptable level of performance on examinations;

~~(6)~~(5) receive and review applications for licensure and certification and issue licenses and certificates;

~~(7)~~(6) review periodically the standards for development and communication of appraisals and adopt rules explaining and interpreting the standards;

~~(8)~~(7) retain all applications and other records submitted to it;

~~(9) maintain a registry of the names and addresses of licensees and certificate holders;~~

~~(10) establish disciplinary procedures for reprimand, suspension, or revocation of a license and certificate;~~

~~(11)~~(8) adopt by rule standards of professional appraisal practice in this state;

~~(12)~~(9) reprimand, suspend, revoke, or refuse to renew the license or certificate of a person who has violated the standards established for licensed and certified real estate appraisers; and

~~(13)~~(10) perform other duties necessary to implement this chapter."

Section 27. Section 37-54-201, MCA, is amended to read:

"**37-54-201. Real estate appraiser license -- scope and display of license.** (1) Upon proof that an applicant meets the qualifications set out in 37-54-202 and upon payment of license fees adopted under 37-54-105, the board shall issue to the applicant a real estate appraiser license.

(2) The term "licensed real estate appraiser" may not be used to describe a firm, partnership, corporation, group, or anyone other than an individual licensee. However, a licensed real estate appraiser may engage in real estate appraisal as a professional corporation.

(3) ~~Nothing in this~~ This chapter ~~precludes~~ does not preclude a person who is not a licensed or certified real estate appraiser from appraising real property for ~~nonfederally related~~ transactions not related to a federal agency or project for compensation, provided that the person does not ~~represent himself as~~ purport to be a licensed or certified real estate appraiser. A person who ~~refers to himself or his company as being~~ purports that the person or the person's company is licensed under this section or certified under 37-54-302 through 37-54-304 without possessing the applicable license or certificate is guilty of a misdemeanor.

(4) This section does not:

(a) prohibit a person who is licensed to practice in this state under any law from engaging in the practice for which ~~he~~ the person is licensed;

(b) apply to public officials in the conduct of their official duties that are not governed by the rules established by the ~~Federal Financial Institutions Examination Council (FFIEC)~~ federal financial institutions examination council agencies.

(5) A licensed or certified real estate appraiser ~~has~~ is subject to restrictions on the scope of practice, depending on the value and complexity of the federally related transaction or transactions pursuant to rules established by the federal financial institutions examination council ~~(FFIEC)~~ agencies, and the restrictions must remain current with any changes in those rules.

(6) A licensed real estate appraiser shall conspicuously display the license in ~~his~~ the appraiser's principal place of business."

Section 28. Section 37-54-202, MCA, is amended to read:

"**37-54-202. Qualifications for licensure.** To qualify for a real estate appraiser license, an applicant:

~~(1) shall successfully complete at least 75 classroom hours of a course of study described in~~

~~37-54-203 and approved by the board.~~

~~(a) The course of study must be conducted by:~~

~~(i) an accredited university, college, or junior college;~~

~~(ii) an approved real estate appraisal or real estate related organization; or~~

~~(iii) another school approved by the board.~~

~~(b) The classroom hours must include:~~

~~(i) at least 60 hours relating to the basic principles of land economics and real estate appraisal; and~~

~~(ii) at least 15 hours relating to the standards of professional appraisal practice set out in 37-54-403 and the ethical rules, as established by board rule, to be observed by a real estate appraiser.~~

~~(2) shall pass an examination administered by the board that is based on the study required by 37-54-203 and subsection (1) of this section and is designed to test the applicant's knowledge of the basic principles of land economics and real estate appraisal, standards of professional appraisal practice, and ethical rules to be observed by a real estate appraiser;~~

~~(3) must be of good moral character;~~

~~(4) must have experience in real estate appraisal as prescribed by the board. The board shall adopt rules pertaining to real estate appraisal experience that substantially comply with and are not more stringent than those required for compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.~~

(1) must be of good moral character;

(2) shall successfully complete a course of study prescribed by the board;

(3) must have the type and amount of experience in real estate appraisal prescribed by the board;

(4) shall successfully complete an examination prescribed by the board; and

(5) shall comply with any other requirements related to the practice of real estate appraisal as prescribed by the board by rule."

Section 29. Section 37-54-210, MCA, is amended to read:

"**37-54-210. License renewal.** (1) A real estate appraiser's license expires on the date set by department rule.

(2) A licensee may renew a license by filing an application with the board on a form approved by the board, paying a renewal fee prescribed by the board, and meeting all requirements of this chapter.

(3) In renewing a license, the board shall ensure that the licensee has a working knowledge of:

(a) current real estate appraisal theories; and

(b) practices and techniques that will enable the licensee to provide competent ~~independent~~ appraisal service under the authority of the license."

Section 30. Section 37-54-211, MCA, is amended to read:

"**37-54-211. Late renewal of license.** (1) A license that is not renewed within 1 year of the most recent renewal date automatically terminates. A licensee may renew the license within the 1-year period from the date of most recent renewal by:

(a) filing with the board an application for late renewal on a form approved by the board;

(b) satisfying the requirements for continued licensure; and

(c) paying a late renewal fee prescribed by the board.

(2) The board may refuse to renew a license if the licensee has continued to perform ~~independent~~ appraisal services as a licensed real estate appraiser following expiration of the license."

Section 31. Section 37-54-301, MCA, is amended to read:

"**37-54-301. Certification -- use of term -- standards of practice.** (1) A person may not represent ~~himself to be~~ to the public that the person is a certified real estate appraiser unless ~~he~~ the person is certified under this chapter.

(2) Only a certified real estate appraiser may prepare and sign a certified appraisal report relating to real estate or real property in this state. If an appraisal report is prepared, signed, and certified by a certified real estate appraiser, a person licensed under this chapter who assisted in the preparation of the appraisal may cosign the appraisal report.

(3) The term "certified real estate appraiser" may not be used to describe a firm, partnership, corporation, group, or anyone other than an individual certificate holder. However, a certified real estate appraiser may develop and communicate an appraisal on behalf of a firm, partnership, corporation, or group.

(4) Whenever an appraisal or appraiser report is identified by the certified real estate appraiser as "certified", the appraiser shall indicate in writing the class of certification the appraiser holds."

Section 32. Section 37-54-304, MCA, is amended to read:

"**37-54-304. Certification examination.** (1) A person who satisfies the qualification requirements of 37-54-202 and the education and experience requirements of 37-54-303 may apply for examination as a certified real estate appraiser in the manner prescribed by this section.

~~(2) The board shall adopt and administer a written examination for certified real estate appraisers and establish standards of acceptable performance for each class of certification that are at least as stringent as those required for compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.~~

~~(3)~~(2) ~~An~~ In addition to the examination subjects required by the board, an applicant must be examined on the ~~following subjects:~~

~~(a) technical terms commonly used in or related to:~~

~~(i) real estate appraisal;~~

~~(ii) appraisal report writing; and~~

~~(iii) economic concepts applicable to real estate;~~

~~(b) principles of land economics, real estate law, and real estate appraisal processes;~~

~~(c) problems likely to be encountered in gathering, interpreting, and processing data required for developing and communicating an appraisal;~~

~~(d) standards for the development and communication of certified real estate appraisals;~~

~~(e) (i) theories of depreciation and cost estimating;~~

~~(ii) methods of capitalization; and~~

~~(iii) the mathematics of real estate appraisal appropriate to the class or classes of certification sought by the applicant; and~~

~~(f)~~ types of misconduct for which disciplinary action may be initiated under this chapter.

~~(4)~~(3) Examinations must be given at least four times each year at times and places as the board determines.

~~(5)~~(4) An applicant may not retake the examination within 6 months after having failed it a second or subsequent time."

Section 33. Section 37-54-305, MCA, is amended to read:

"**37-54-305. Issuance and display of certificate.** (1) The board shall issue a certificate and a pocket card to a person who meets the requirements of 37-54-302 through 37-54-304.

(2) The certificate must include the dates of issuance and renewal of certification.

(3) A certified real estate appraiser shall conspicuously display the certificate in ~~his~~ the appraiser's principal place of business.

(4) A certified real estate appraiser shall designate the class for which ~~he~~ the appraiser is certified and place ~~his~~ the certificate number on each appraisal report, contract, or other instrument ~~used by him~~ that the appraiser uses in conducting real estate appraisal activities."

Section 34. Section 37-54-311, MCA, is amended to read:

"**37-54-311. Late renewal of certificate.** (1) A certificate that is not renewed within 1 year of the most recent renewal date automatically terminates. A certificate holder may renew the certificate within the 1-year period from the date of most recent renewal by:

(a) filing with the board an application for late renewal on a form approved by the board;

(b) satisfying the requirements set by law; and

(c) paying a late renewal fee prescribed by the board.

(2) The board may refuse to renew a certificate if the certificate holder has continued to perform ~~independent~~ appraisal services in this state following expiration of the certificate."

Section 35. Section 37-60-303, MCA, is amended to read:

"**37-60-303. License qualifications.** (1) Except as otherwise specified in this section, an applicant for licensure under this chapter shall submit evidence under oath that ~~he~~ the applicant:

(a) is at least 18 years of age;

(b) is a citizen of the United States;

(c) has not been convicted in any jurisdiction of any felony or any crime involving moral turpitude or illegal use or possession of a dangerous weapon, for which a full pardon or similar relief has not been granted;

(d) has not been judicially declared incompetent by reason of any mental defect or disease or, if so declared, has been fully restored;

(e) is not suffering from habitual drunkenness or from narcotics addiction or dependence;

(f) is of good moral character; and

(g) has complied with ~~such~~ other experience qualifications as may be set by the rules of the board.

(2) In addition to meeting the qualifications in subsection (1), an applicant for licensure as a private security guard shall:

(a) complete the training requirements of a private security guard training program certified by the board and provide, on a form prescribed by the board, written notice of satisfactory completion of ~~such~~ the training; and

(b) fulfill ~~such~~ other requirements as the board may by rule prescribe.

(3) In addition to meeting the qualifications in subsection (1), each applicant for a license to act as a private investigator shall submit evidence under oath that ~~he~~ the applicant:

(a) is at least 21 years of age;

(b) has at least a high school education or its equivalent;

(c) has not been dishonorably discharged from any branch of the United States military service;

(d) for a period of not less than 3 years:

(i) has been lawfully engaged in the private investigative business;

(ii) has been lawfully employed as a private investigator or been the holder of a certificate of authority to conduct a private investigative business; or

(iii) has been an investigator, detective, special agent, or peace officer of a city, county, or state government or of the United States government; and

(e) ~~has completed the training requirements of a private investigator training program certified by the board and furnished, on a form prescribed by the board, written notice of satisfactory completion of such training; and~~

~~(f)~~ has fulfilled ~~such other~~ any other requirements as the board may by rule prescribe.

(4) Up to one-half of the experience required by subsection (3)(d) may be met by a combination of education and training as accepted by the board. All college credits must be from an accredited college or university and be verified by transcript.

(5) Applicants who will wear or carry firearms in performance of their duties shall submit written notice of satisfactory completion of a firearms training program certified by or satisfactory to the board, as it may by rule prescribe.

(6) A corporation applying for a license under this section must be incorporated under the laws of this state or be duly qualified to do business within this state.

(7) The board shall require an applicant to demonstrate by written examination such additional

qualifications as the board may by rule require."

Section 36. Section 37-65-202, MCA, is amended to read:

"**37-65-202. Compensation of board members -- expenses.** Each member of the board is entitled to receive compensation and travel expenses ~~at the rate~~ as provided in 37-1-133 ~~and the actual cost of mileage or other reasonable transportation costs, meals, and lodging when engaged in official board business~~."

Section 37. Section 37-68-102, MCA, is amended to read:

"**37-68-102. Definitions.** Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Board" means the state electrical board provided for in 2-15-1874.

(2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(3) "Electrical contractor" means a person, firm, partnership, corporation, association, or combination of these who undertakes or offers to undertake for another the planning, laying out, supervising, and installing or the making of additions, alterations, and repairs in the installation of wiring apparatus and equipment for electric light, heat, and power. A registered electrical engineer who plans or designs electrical installations is not an electrical contractor.

(4) "Journeyman electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to wire for, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes under the rules governing this work.

(5) "Low-voltage installations" means any electrical system under 90 volts as measured by a broad scope test.

(6) "Master electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation and repair of wiring apparatus and equipment for electric light, heat, power, and other purposes under the rules governing this work.

~~(6)~~(7) "Residential electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to wire for, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes in residential construction consisting of less than five living units

in a single structure under the rules governing this work."

Section 38. Section 37-68-103, MCA, is amended to read:

"**37-68-103. Exemptions.** (1) ~~Nothing in this~~ This chapter ~~shall be deemed to~~ does not apply to the installation, alteration, or repair of electrical signal or communications equipment owned or operated by a public utility or a city. For purposes of this exemption, "communications equipment" includes telephone wire inside a customer's premises. ~~Nothing in this~~ This chapter ~~prohibits~~ does not prohibit a public utility from doing inside wiring to install, alter, repair, or maintain electrical equipment, installations, or facilities in buildings owned by the public utility if the work is accomplished by an employee who is a licensed electrician. If the building owned by the public utility is open to the public and the inside wiring constitutes major renovation or construction, the installation, alteration, repair, or maintenance of electrical equipment, installations, or facilities is subject to permits and inspections required by law.

(2) The licensing or inspection provisions of this chapter do not apply to regularly employed maintenance electricians doing maintenance work on the business premises of their employer, nor do they apply to line work on the business premises of the employer when ordinary and customary in-plant or onsite installations, modifications, additions, or repairs are performed.

(3) ~~Nothing in this~~ This chapter ~~shall~~ may not be construed to require an individual to hold a license while performing or for the purpose of ~~doing~~ performing electrical work on ~~his~~ the individual's own property or residence provided that ~~said~~ the property or residence is maintained for ~~his~~ the individual's own use.

(4) An individual, firm, partnership, or corporation may engage in business as an electrical contractor without an electrician's license if all electrical work performed by ~~such~~ the individual, firm, partnership, or corporation is under the direction, control, and supervision of a licensed master electrician or under the direction, control, and supervision of a journeyman electrician for residential construction consisting of less than five ~~living~~ residential units in a single structure.

(5) Any person who plugs in an electrical appliance where an approved electrical outlet is already installed ~~shall~~ may not be considered as an installer.

(6) ~~No provisions of this~~ This chapter ~~shall~~ may not in any manner interfere with, hamper, preclude, or prohibit any vendor of any electrical appliance from selling, delivering, and connecting any electrical appliance if the connection does not necessitate the installation of electrical wiring of the structure where the appliance is to be connected.

(7) This chapter may not be construed to require an individual to hold a license for performing or acting as a contractor to perform low-voltage installations. This exemption does not apply to fire and smoke installations that are regulated under Title 50, chapter 3."

NEW SECTION. **Section 39. Definitions.** As used in this chapter, the following definitions apply:

(1) "Apprentice" means a person who is working in a training capacity to service or instal fire alarm systems, special agent fire suppression systems, or fire extinguishing systems and who is studying in accordance with a program approved by the department of commerce.

(2) "Endorsement" means a document, issued by the department of commerce to an individual who has met qualifications, that authorizes the individual to sell, service, and install fire alarm systems, special agent fire suppression systems, or fire extinguishing systems.

(3) "Entity" means any business, partnership, sole proprietorship, organization, association, corporation, firm, governmental organization, fire agency, or any other business association.

(4) (a) "Fire alarm system" means a combination of approved compatible devices with the necessary electrical interconnection and energy to produce an alarm signaling the event of fire or system activation.

(b) The term does not include single station smoke or heat detectors.

(5) "Fire extinguisher" means a portable device containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire.

(6) "Fire extinguishing system" means a fire sprinkler system designed in accordance with nationally recognized standards that consists of an assembly of piping or conduits that conveys water, foam, or air with or without other agents to dispersal openings or devices to extinguish, control, or contain fire and to provide protection from exposure to fire or the products of combustion. Included are underground and overhead piping, ponds, tanks, pumps, extra or special hazard applications, and other related components or devices necessary for water supplies.

(7) "Inspection" means the periodic examination of premises, equipment, or procedures or of a licensed or endorsed person or entity to determine whether the person's or entity's business or profession is being conducted in a manner consistent with the public health, safety, and welfare. The term includes the inquiry, analysis, audit, or other pursuit of information, with respect to a written complaint or other information before the department of commerce, that is carried out for the purpose of assisting the

department of commerce in determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) whether a license should be granted or denied; or

(c) whether the department of commerce should seek an injunction against unlicensed practice.

(8) (a) "Install" means the technical work that may be performed only by an endorsed individual or an apprentice in the assembly of a fire alarm system, special agent fire suppression system, or fire extinguishing system.

(b) The term does not include the delivery of supplies or the offsite cutting or threading of pipe.

(c) The term does include the following tasks:

(i) inspection of jobsites to determine the presence of obstructions and to ascertain that holes will not cause structural weaknesses;

(ii) determination of the course or plan of installation;

(iii) any jobsite bending of pipe or electrical conduit as part of the installation;

(iv) jobsite assembly and installation of metal or nonmetal pipe fittings, including but not limited to those made of brass, copper, lead, glass, and plastic;

(v) jobsite assembly and installation of wiring systems;

(vi) joining of piping by any means, including pipes joined by threaded, caulked, wiped, soldered, brazed, fused, or cemented joints;

(vii) securing of pipe, wire, or electrical conduit to the structure by any means, including but not limited to clamps, brackets, hangers, and welds; and

(viii) testing the installed system for electrical or mechanical malfunctions.

(9) "License" means the document issued by the department of commerce that authorizes a person or entity to engage in the business of servicing fire extinguishers or to engage in the business of selling, servicing, or installing fire alarm systems, special agent fire suppression systems, or fire extinguishing systems.

(10) "Sell", "sale", and associated words mean offering or contracting to transfer, lease, or rent any merchandise, equipment, or service at retail to the public or any member of the public for an agreed sum of money or other consideration.

(11) (a) "Service", when referring to portable fire extinguishers and fire extinguisher cylinders, means maintenance and includes breakdown for replacement of parts or for agent, repair, recharging, or

hydrostatic testing.

(b) When referring to alarm systems, fire extinguishing systems, and fire suppression systems, the term means maintenance and testing required to keep the protective signaling, extinguishing, and suppression system and its component parts in an operative condition at all times, together with replacement of the system or its component parts with listed or approved parts when for any reason they become undependable, defective, or inoperative.

(c) The term does not include resetting manual alarm systems that may be reset by a properly trained building owner or the owner's designated representative.

(12) "Special agent fire suppression system" means an approved system and components that require individual engineering in accordance with manufacturer specifications and includes dry chemical, carbon dioxide, halogenated, gaseous agent, foam, and wet chemical systems. The term includes a preengineered system but does not include a fire extinguishing system.

NEW SECTION. **Section 40. Definitions.** As used in this part, the following definitions apply:

(1) "Crane" means a machine with a hoisting mechanism that is integral to the machine and that is used for lifting and lowering a load and for moving it horizontally.

(2) "Department" means the department of commerce provided for in 2-15-1801.

(3) "Gantry crane" and "trolley crane" are synonymous and mean a crane similar to an overhead crane except that the bridge for carrying the trolley or trolleys is rigidly supported on two or more legs running on fixed rails or another type of runway.

(4) "Hoist" means a power-driven apparatus capable of lifting and lowering loads and not designed to facilitate horizontal movements.

NEW SECTION. **Section 41. Rulemaking authority.** The department may adopt rules consistent with the purposes of this chapter for the administration of the following classes of crane and hoist operators:

(1) crane and hoist oiler;

(2) crane and hoist hoisting;

(3) crane and hoist hydraulic;

(4) crane gantry and trolley;

(5) hoists;

(6) mine hoists;

(7) hydraulic and boom trucks; and

(8) tower crane.

Section 42. Section 50-76-103, MCA, is amended to read:

"**50-76-103. Crane and hoist license required.** (1) (a) It is unlawful for a person to operate any ~~hoisting~~ crane and hoist equipment, when used in hoisting or lowering personnel or material, that has a manufacturer's rating of more than 6 tons ~~or~~ and a boom length of more than 25 feet without first obtaining a license from the department of commerce. This equipment includes overhead trolley and gantry cranes used in construction only and excludes equipment with excavation attachments or log loading equipment when in use.

(b) In emergencies, 50-74-317 applies to the operation of the equipment named in this section.

(2) Licensing is as follows:

(a) First-class ~~hoisting~~ crane and hoist engineers are licensed to operate any hoisting equipment in industrial or construction operations.

(b) (i) An applicant for a first-class ~~hoisting~~ crane and hoist engineer's license must be 18 years of age or older and:

(A) must have no less than 3 years' experience operating equipment requiring a second-class ~~hoisting~~ crane and hoist engineer's license or shall demonstrate equivalent competency by examination; and

(B) is required to pass a written test prescribed by the department of commerce.

(ii) ~~An annual~~ A biennial physical exam is required of all licensees.

(c) Second-class ~~hoisting~~ crane and hoist engineers are licensed to operate ~~hoisting~~ crane and hoist equipment with a manufacturer's rating of 6 tons ~~or~~ and a boom length of 25 feet up to equipment with a rating of 15 tons and a boom length of 60 feet.

(d) (i) An applicant for a second-class ~~hoisting~~ crane and hoist engineer's license must be 18 years of age or older and:

(A) must have no less than 2 years' experience in actual operation of ~~hoisting~~ crane and hoist equipment covered by this section or shall demonstrate equivalent competency by examination; and

(B) is required to successfully pass a written examination prescribed by the department of commerce.

(ii) ~~An annual~~ A biennial physical exam is required of all licensees.

(e) Third-class ~~hoisting~~ crane and hoist engineers are licensed to move all truck cranes driven by any power and of any capacity. This license requirement applies to truck crane oilers who move truck cranes.

(f) An applicant for a third-class ~~hoisting~~ crane and hoist engineer's license is required to successfully pass a written test prescribed by the department of commerce and must be 18 years of age or older before receiving a license.

(3) The department commerce shall reexamine each licensed engineer or operator every 5 years during the anniversary month of the issuance of the license if the licensee has not worked at the trade for 5 years."

Section 43. Section 50-76-104, MCA, is amended to read:

"**50-76-104. Application and fee for license.** Application for licenses must be made to the department of commerce and submitted with the appropriate fee that is set commensurate with the cost of administering this program, to be deposited in the state special revenue fund for use by the department. ~~The same fee must be charged as required by law for obtaining a license to operate steam engines, boilers, and steam-driven machinery under chapter 74 of this title.~~"

NEW SECTION. **Section 44. Repealer.** Sections 37-54-203, 50-39-104, 50-74-314, 50-76-106, 76-4-1201, 76-4-1202, 76-4-1203, 76-4-1204, 76-4-1205, 76-4-1206, 76-4-1207, 76-4-1208, 76-4-1209, 76-4-1210, 76-4-1211, 76-4-1212, 76-4-1213, 76-4-1221, 76-4-1222, 76-4-1223, 76-4-1224, 76-4-1225, 76-4-1226, 76-4-1227, 76-4-1228, 76-4-1229, 76-4-1230, 76-4-1231, 76-4-1232, 76-4-1233, 76-4-1234, 76-4-1235, 76-4-1236, 76-4-1237, 76-4-1238, 76-4-1239, 76-4-1240, 76-4-1241, 76-4-1242, 76-4-1243, 76-4-1244, 76-4-1245, 76-4-1246, 76-4-1247, 76-4-1248, 76-4-1249, 76-4-1250, and 76-4-1251, MCA, are repealed.

NEW SECTION. **Section 45. Codification instruction.** (1) [Sections 1 through 12] are intended to be codified as an integral part of Title 37, chapter 1, and the provisions of Title 37, chapter 1, apply to [sections 1 through 12].

(2) [Section 39] is intended to be codified as an integral part of Title 50, chapter 39, and the

provisions of Title 50, chapter 39, apply to [section 39].

(3) [Sections 40 and 41] are intended to be codified as an integral part of Title 50, chapter 76, part 1, and the provisions of Title 50, chapter 76, part 1, apply to [sections 40 and 41].

NEW SECTION. **Section 46. Coordination instruction.** (1) If [this act] and __ Bill No. __ [LC 423] are both passed and approved, then [section 7], relating to unprofessional conduct complaint--sanctions, and [section 8], relating to penalty, of __ Bill No. __ [LC 423] are void.

(2) Any legislation enacted by the 55th legislature that enacts a license requirement for a profession or occupation that is not administered by a board must be subject to the provisions of [sections 1 through 12], and the code commissioner shall include appropriate references to reflect the provisions of [sections 1 through 12].

NEW SECTION. **Section 47. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0164, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act generally revising occupational licensing laws, including those related to hearing aid dispensers, dentists, physical therapists, naturopathic physicians, real estate appraisers, private investigators, electricians, fire suppression system installers, crane and hoist operators, and licensed professions and occupations without boards.

ASSUMPTIONS:
1. Sections 1 through 12 provide for uniform licensing laws for programs in the Department of Commerce (DOC) where no regulatory boards are attached. The budget as submitted will absorb any administrative rule changes.
2. Section 13 adds one new member to the Board of Dentistry. Total cost is $2,500 each fiscal year ($750 per diem; travel $1,510; $240 operating.)
3. Section 14 adds two members to the Board of Hearing Aid Dispensers. Total cost is $3,464 each fiscal year ($800 per diem; travel $2,400; $264 operating).
4. Section 15 increases the number of members that constitute a quorum on the Board of Dentistry. There is no fiscal impact.
5. Sections 16 and 17 provide for computerized testing of physical therapists and physical therapist assistants and there is no fiscal impact.
6. Sections 18 through 22 provide for the licensing of corporations or business entities that sell, fit or dispense hearing aids. It is anticipated that 41 businesses or entities will be licensed. Costs associated with setting up this new licensing category will be absorbed under the budget as recommended.
7. Section 23 and 24 authorize the Board of Alternative Health Care Practitioners to appoint a formulary committee for the purpose of establishing a natural substance formulary list. Associated costs can be absorbed by the budget as recommended.
8. Sections 25 through 34 are housekeeping changes for the Board of Real Estate Appraisers. These changes will allow the board to conform with the Uniform Standards of Professional Appraisal Practice as required by federal mandate. These changes have no fiscal impact.
9. Section 35 repeals the requirement that a private investigator complete a training program certified by the board. Repeal of this section has no fiscal impact.
10. Section 36 removes actual travel reimbursement from the Board of Architects. There is a saving of $96.81 (out-of-state meals savings $56; instate meals savings $19.96; and instate lodging savings $22.65).
11. Sections 37 and 38 provide an exemption for low-voltage installations under 90 volts. This exemption has no fiscal impact.
12. Section 39 provides definitions for fire alarm systems, special agent fire suppression systems, and fire extinguishing systems. There is no fiscal impact.
13. Sections 40 and 41 provide the DOC with rulemaking authority for cranes and hoists. Rulemaking costs will be absorbed under the budget as recommended.
14. Section 42 contains housekeeping clarification changes for crane and hoist engineers and changes the annual physical examination requirement to a biennial physical examination. There is no fiscal impact.
15. Section 43 removes the requirement that boiler and crane fees be set at the same rate. There is no fiscal impact.
16. Section 44 eliminates the requirement of instate sales of out-of-state subdivisions. There is no fiscal impact.

(continued)

Dave Lewis 1-9-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Carley Tuss 1/10/97
CARLEY TUSS, PRIMARY SPONSOR DATE

FISCAL IMPACT:
Department of Commerce
POL Bureau:

Expenditures:

	FY98 Difference	FY99 Difference
Personal Services	1,550	1,550
Operating Expenses	4,317	4,317
Total	5,867	5,867

Funding:

POL SSR (02)	5,867	5,867

HEARING ON HB 164

Opening Statement by Sponsor: **REP. CARLEY TUSS,** H.D. 46 introduced the bill.
{Tape: 1; Side: 2; Approx. Time Count: 18.2; Comments: None.}

Proponents' Testimony:

Steve Malloy, Chief, Occupational and Professional Licensing, Dept. of Commerce.
{Tape: 1; Side: 2; Approx. Time Count: 22.0; Comments: None.}

Mary McCue, Montana Dental Association. EXHIBIT 2
{Tape: 1; Side: 2; Approx. Time Count: 22.7; Comments: None.}

Cheri Seed, MT Dental Hygienists Assn. EXHIBIT 3.
{Tape: 1; Side: 2; Approx. Time Count: 24.0; Comments: None.}

Lee Wiser, Bozeman, MT, EXHIBIT 4.
{Tape: 1; Side: 2; Approx. Time Count: 25.6; Comments: None.}

Aaron Hansemann, 2901 8th Ave. No., Great Falls, MT, EXHIBIT 5.
{Tape: 1; Side: 2; Approx. Time Count: 27.8; Comments: NONE.}

Mona Jamison, Physical Therapist Assn. & Speech Pathologists.
{Tape: 2; Side: 1; Approx. Time Count: .00; Comments: None.}

Dudley Anderson, Board of Hearing Aid Dispensers
{Tape: 2; Side: 1; Approx. Time Count: 4.1; Comments: None.}

Ben Havdahl, Helena, MT, EXHIBIT 6.
{Tape: 2; Side: 1; Approx. Time Count: 7.0; Comments: None.}

DR. Michael Bergkamp, Board of Alternative Medicine.
{Tape: 2; Side: 1; Approx. Time Count: 8.0; Comments: None.}

Darrell Holzer, AFL-CIO
{Tape: 2; Side: 1; Approx. Time Count: 11.0; Comments: None.}

Opponents' Testimony:

Beda Lovitt, MT Medical Association
{Tape: 2; Side: 1; Approx. Time Count: 15.2; Comments: None.}

Informational Testimony: **None**

Questions From Committee Members and Responses:

{Tape: 2; Side: 1; Approx. Time Count: 18.7; Comments: None.}

EXHIBIT 3 2
DATE 1/13/97
HB 164

McCUE LAW FIRM

STEPHEN R. McCUE
MARY KELLY McCUE

34 WEST SIXTH AVENUE, SUITE 1-C
POST OFFICE BOX 4416
HELENA, MONTANA 59604

406/443-4455
FAX 406/443-1592

January 13, 1997

TO: Members of the House Business and Labor Committee

FROM: Mary Kelly McCue M. McCue
Lobbyist
Montana Dental Association

RE: Sections 13 and 15 of HB 164

The Montana Dental Association, comprised of more than 90% of Montana's actively practicing dentists, supports the amendments to the dental practice act which are contained in House Bill 164.

Section 13 of the bill alters the present composition of the Board of Dentistry by adding a second dental hygienist to the board. The bill also provides that each member of the board would be a voting member. Presently one of the five dentist members is a nonvoting member.

Over the course of the last year the members of the Montana Dental Association have considered this proposal by the present Board of Dentistry to include an additional hygienist on the board. We recognize the Board's need to have the professional expertise and assistance that a second dental hygienist would provide. MDA members believe that is appropriate to expand representation of the dental hygiene profession on the board.

The Association also supports the language of bill which would allow the second hygienist to be a voting member of the Board. And the language which would permit the fifth, nonvoting dentist member to vote.

Thank you for your attention and consideration.

EXHIBIT 3
DATE 1/13/97
HB 164

#164-
Exhibit 3

MONTANA DENTAL HYGIENISTS ASSOCIATION
Testimony, House Business & Labor Committee
Monday, January 13, 1997

Chairman Simon and members of the committee, I am Cheri Seed, a Registered Dental Hygienist and a member of the Montana Dental Hygienists Association. I come before you today in support of House Bill 164 by Representative Carley Tuss.

Section 13 of the bill amends the statutes pertaining to the Board of Dentistry as follows: one voting dentist will be added for a total of five, one hygienist will be added for a total of two. The remainder of the board will continue as previously constituted with one denturist and two public members. The board total will change from 9 to 10 members.

There are approximately 324 dental hygienists, 478 dentists and 13 denturists who are currently practicing in the state. House Bill 164 is a step toward reaching equal representation of dental hygienists on the Board of Dentistry and we support the effort.

However, we urge the committee to evaluate the efforts made by states such as New Mexico, where a committee of Dental Hygiene is established within the Board of Dentistry--allowing registered dental hygienists to monitor and enforce regulations of their specific profession.

The primary goal of our membership is to ensure the safest and most professional health services to the public. We urge passage of House Bill 164.

EXHIBIT 4
DATE 1/13/97
HB 164

#HB 164
Exhibit

37-29-303. Application for license. Upon application and payment of the appropriate fee, the board shall issue a license to practice denturitry to any applicant who meets one of the following criteria and scores a passing grade on the examination for licensure:

(1) documentation that the applicant has completed formal training of not less than 2 years at an educational institution approved by the board or accredited by a national or regional accrediting agency recognized by the Montana state board of regents, the curriculum of which includes courses in head and oral anatomy and physiology, oral pathology, microbiology, partial denture construction and design, clinical dental technology, radiology, dental laboratory technology, asepsis, clinical jurisprudence and medical emergencies, including cardiopulmonary resuscitation; and

(2)(a) documentation that the applicant:

(a)(i) has completed 1 year of internship under the direct supervision of a licensed denturist; or

(b)(ii) has 3 years of experience as a denturist under licensure in another state or Canada.

(2) A person who has been previously licensed by initial licensing provisions of this chapter may be relicensed by the board. The board at its discretion may require the following:

(a) a practical examination of competency; or

(b) continuing education equal to the requirement of a three (3) year period.

EXHIBIT 5
DATE 1/13/97
HB 164

N. AARON HANSEMANN

2901 8th Avenue North #4
Great Falls, MT 59401

W: 800-541-6453
H: 406-452-2786

January 10, 1997

Attn:Chairman of House Business and Labor Committee
Fax: 900-225-1600

Dear Representative Bruce Simon:

I am writing in response to comments made on the floor during the hearings regarding the State Boards. I have been informed that Steve Malloy, of the Professional Occupational Licensing Department, erroneously told the committee that there was currently a denturist intern practicing in the state of Montana. As of right now I am not aware of another individual other than myself that is pursuing a denturist internship.

Presently I am working as a lab technician in Great Falls and not as an intern. I graduated from George Brown College spring of 1996 in hopes of pursuing this career in Montana. The denturists program at George Brown College has been approved by the Montana Board of Regents satisfying the educational requirements for internship. However, I received a letter dated September 20, 1996 stating that I am **not** to begin my internship until final approval has been granted from the Board of Dentistry. My case will come up for a third time at their meeting on January 24, 1997. This does in fact contradict what Mr. Malloy has said.

If allowable please circulate this letter to members of the House Business and Labor Committee. Thank you for your time regarding this matter. If you have any questions, please feel free to contact me at one of the numbers above.

Sincerely,
N. Aaron Hansemann

EXHIBIT 6
DATE 1/13/97
HB 164

House Bill 164 by Tuss - Request of Dept. of Commerce
Statement by Ben Havdahl, Helena
Former Consumer Representative on Board of Hearing Aid Dispensers.

(Bill generally revising occupational licensing laws including those related to the hearing aid dispensers. Hearing before the House Business and Labor Committee at 10 AM, Monday, January 10, 1997.)

Mr. Chairman and members of the committee. For your record, my name is Ben Havdahl and I live in Helena. I am appearing here as a private citizen and former consumer representative for the past six years on the Board of Hearing Aid Dispensers. As HB 164 relates to that Board, I am very much in support of HB 164.

(2) Sections 1 through 12 uniform provisions for all boards and includes unprofessional conduct, uniform provisions for conducting hearing procedures, handling of complaints and others.

(3) Section 14, page 7, expands HAB to seven members from five; allows better and more even handed representation; the 7 member board is need to comply with requirements in dealing with the procedure for handing complaints i.e. 3 members serve on a complaint screening panel and make recommendations for action by the Board. The 3 are not eligible to serve on the Board when final action is taken. Increasing the total to 7, insures a 4 member majority remaining for the Board to take action.

(4) Section 18 extends the Boards authority to corporations or other business entities who hire hearing aid dispensers. Under current law, the Board is powerless to take any action against the corporation or business entity whose principals have refused to make corrections or refunds when the dispenser is no longer associated with the firm.

Also it removes the incentive to pressure dispensers in selling quotes and techniques that high pressure sales to consumers.

It also gives Board power to handle questionable advertising and other marketing practices that lead to fraud, misrepresentation, improper testing and evaluation, fitting and unethical business promotion practices.

(5) Section 19 Requires all bills of sale to reflect needed information not now fully disclosed by the company and dispenser to the purchaser of hearing aids. The requirement for providing information about contacting the board for consumer information and rights with phone number etc. is very beneficial. The new language clears up misconceptions about medical evaluation requirements.

(6) Section 20 Spells out clearly, the right to cancel and return of the hearing aid. It removes the limited confusing conditions in the law that allow a hearing aid to be returned, substituting in stead "for any reason" within 30 days of date of delivery.
Changing the 30 day refund period by the dispenser to 10 days and reducing the dispensing fee from 20% to 10% are welcome modifications of these provisions by consumers. Some companies were allowing longer times for trial and charging more than the 20% allowed under the law.

Written notice to the establishment that employed the licensed dispenser at the time of purchase, is a great improvement over existing notice procedures and brings into play the responsibility of the firm. It has not been uncommon for a purchaser to find that the dispenser is gone from the employ of the firm and firm to take no responsibility in the matter when a return and refund is made.

Finally, the inclusion of language that the dispenser must provide the consumer written notice of the 30 day trial period and money back guarantee are excellent safeguards for consumers. Also important is the clarification that when the aids are being adjusted or repaired and not in the possession of the purchaser, the 30 day period must be adjusted accordingly.

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL DATE 1/13/97

NAME	PRESENT	ABSENT	EXCUSED
Bruce Simon, Chairman	✓		
Paul Sliter Vice Chairman	✓		
Bob Pavlovich, Vice Chairman	✓		
Joe Barnett	✓		
Rod Bitney	✓		
Sylvia Bookout	✓		
Charles Devaney	✓		
David Ewer	✓		
Kim Gillan	✓		
Billie Krenzler	✓		
Bob Lawson	✓		
Rod Marshall	✓		
Gay Ann Masolo	✓		
Wes Prouse	✓		
Carolyn Squires	✓		
Jay Stovall	✓		
Cliff Trexler	✓		
Joe Tropila	✓		
Carley Tuss	✓		

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Commerce COMMITTEE BILL NO. 164 - 165 - 56

DATE 1/13/97 SPONSOR(S) _____

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Cheryl Smith	Commerce - HAD	164		✓
Kim Anderson	Board of Dentistry	164		✓
TODD TITUS	NCNA	164	—	
Dudley Anderson	Board - hearing aid dispensers	164		✓
Terri Olson	HB 164 NCDHHS	164		
Chris Saad	HB 164 NCDHHS	164		
Charles Rehbein	DPHHS - Senior & Long Term	56		✓
LEE WISER	MYSELF	164		✓
Alison Hasemann	Myself	164		✓
Beda Smith	NCNHA	164	$24 ✓	
Mullard Berkamp	Board of Alt Health	164		✓
David Hemion	NC Dental Assoc.	164		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Business COMMITTEE BILL NO. 164-165-56

DATE 1/23/97 SPONSOR(S)

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Mona Jamison	Physical Therapy Assoc Speech Path/ Audiol	164		✓
Steven M. Mister 1150 Connecticut Ave. NW Washington DC 20036	Nonprescription Drug Mfrs Association	165		✓ w/ amendment
Millicent Peck 836 Front Str. Helena MT	Board of Hearing	56		✓
Ben Havdahl Box 244 Helena	Self	164		✓
JOHN SHONTZ 603 Otis S 59601	MT Ass Realtors	56 ~~164~~		✓
Rep Paul Sankhead Paul Sankhead	HD72	56		✓
Carroll Rice Helena	MT Board of R/E Appraisers			✓
Mary McCue	Mt Dental Assn	164		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE STANDING COMMITTEE REPORT

January 22, 1997

Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 164** (first reading copy -- white) **do pass as amended**.

Signed: _____
Bruce Simon, Chair

And, that such amendments read:

1. Title, line 6.
Following: "DENTISTS,"
Insert: "DENTURISTS,"

2. Title, line 7.
Strike: "ELECTRICIANS,"

3. Title, line 11.
Following: "37-26-301,"
Insert: "37-29-303,"

4. Title, line 12.
Following: "37-65-202,"
Strike: "37-68-102, 37-68-103,"

5. Title, line 13.
Strike: "AND"

6. Title, line 19.
Following: "MCA"
Insert: "; AND PROVIDING A TERMINATION DATE"

7. Page 1, line 29.
Strike: "40 and 41"
Insert: "39 and 40"

1-22-97
3:40

Committee Vote:
Yes 9, No 0.

151530SC.Hgd

8. Page 13, lines 8 and 9.
Following: "~~20%~~" on line 8
Strike: the remainder of line 8 through trade-in on line 9
Insert: "the actual cost of dispensing the hearing aid or related device to the purchaser. This cost must be substantiated by the dispenser, and regardless of the length of the trial period, the dispensing fee may not exceed 15% of the total cost of the hearing aid or related device."

9. Page 16.
Following: line 18
Insert: "(a) prescribe, dispense, or administer any legend drug, as defined in 50-31-301, except for whole gland thyroid; homeopathic preparations; the natural therapeutic substances, drugs, and therapies described in subsection (2); and oxytocin (pitocin), provided that the naturopathic physician may administer but may not prescribe or dispense oxytocin (pitocin);"
Renumber: subsequent subsections

10. Page 17, line 3.
Following: "pharmacist"
Strike: "nominated"

11. Page 17, line 4.
Strike: "by the Montana pharmaceutical association"

12. Page 17, line 19.
Insert: "**Section 25.** Section 37-29-303, MCA, is amended to read:
"**37-29-303. Application for license.** Upon application and payment of the appropriate fee, except as provided in subsection (3), the board shall issue a license to practice denturitry to any applicant who meets the following criteria and scores a passing grade on the examination for licensure:
(1) documentation that the applicant has completed formal training of not less than 2 years at an educational institution accredited by a national or regional accrediting agency recognized by the Montana state board of regents, the curriculum of which includes courses in head and oral anatomy and physiology, oral pathology, microbiology, partial denture construction and design, clinical dental technology, radiology, dental laboratory technology, asepsis, clinical jurisprudence, and medical emergencies, including cardiopulmonary resuscitation; and
(2) documentation that the applicant:
(a) has completed 1 year of internship under the direct supervision of a licensed denturist; or
(b) has 3 years of experience as a denturist under

licensure in another state or Canada.

(3) Notwithstanding the provisions of subsections (1) and (2), the board may issue a license to a person who has previously been licensed under the provisions of this chapter but whose license has expired. Before issuing the license, the board may require:

(a) a clinical practical examination of competency; or

(b) documentation verifying that the person seeking the license has completed continuing education courses that constitute, in the board's judgment, practical training that is substantially equivalent to the 3 years of experience required in subsection (2)(b)."

13. Page 26, line 9 through line 1 on page 27.
Strike: section 37 in its entirety
Renumber: subsequent sections

14. Page 27, line 3 through line 3 on page 28.
Strike: section 38 in its entirety
Renumber: subsequent sections

15. Page 32, line 30.
Following: "Section"
Strike: "39"
Insert: "38"

16. Page 33, line 1.
Following: "section"
Strike: "39"
Insert: "38"

17. Page 33, lines 2 and 3.
Strike: "40 and 41"
Insert: "39 and 40"

18. Page 33, following line 16.
Insert: " NEW SECTION. **Section 47. Termination.** [Section 25] terminates January 1, 1998."

-END-

Tim Murphy, Casino owner, Gt Falls
{Tape: 3; Side: 1; Approx. Time Count: 11.7; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 3; Side: 1; Approx. Time Count: 14.0; Comments: None.}

Closing by Sponsor: Rep. Ewer closed.
{Tape: 3; Side: 2; Approx. Time Count: 3.5; Comments: None.}

EXECUTIVE ACTION ON HB 164

MOTION: Rep. Tuss moved HB 164 Do Pass.
{Tape: 3; Side: 2; Approx. Time Count: 5.5; Comments: None.}

Motion/Vote: Rep. Tuss moved to adopt Tuss amendment. Motion passed unanimously. **EXHIBIT 9.**
{Tape: 3; Side: 2; Approx. Time Count: 8.8; Comments: None.}

Motion: Rep. Prouse moved to adopt Prouse amendment. **EXHIBIT 10.**
{Tape: 3; Side: 2; Approx. Time Count: 16.1; Comments: None.}

Discussion: Prouse amendment.
{Tape: 3; Side: 2; Approx. Time Count: 16.2; Comments: None.}

Vote: Prouse amendment passed by roll call vote 11-8.
{Tape: 3; Side: 2; Approx. Time Count: 28.1; Comments: None.}

Motion/Vote: Rep. Simon moved to adopt Simon amendment. Motion passed unanimously. **EXHIBIT 11.**
{Tape: 3; Side: 2; Approx. Time Count: 28.9; Comments: None.}

Motion: Rep. Tuss moved to adopt Tuss amendment.
{Tape: 3; Side: 2; Approx. Time Count: 29.9; Comments: None.}

Motion/Vote: Rep. Pavlovich moved to adopt Pavlovich substitute amendment. Motion failed roll call vote 9-10.
{Tape: 3; Side: 2; Approx. Time Count: 38.7; Comments: None.}

Motion//Vote: Rep. Sliter moved to adopt Sliter substitute amendment. Motion passed unanimously.
{Tape: 4; Side: 1; Approx. Time Count: 2.3; Comments: None.}

Motion/Vote: Rep. Tuss moved HB 164 Do Pass as amended. Motion passed unanimously.
{Tape: 4; Side: 1; Approx. Time Count: 3.7; Comments: None.}

EXHIBIT 9
DATE 1/22/97
HB 164

Amendments to House Bill No. 164
First Reading Copy

Requested by Rep. Carley Tuss
For the Committee on Business and Labor

Prepared by Stephen Maly
January 20, 1997

1. Title, line 7.
Strike: "ELECTRICIANS,"

2. Title, line 12.
Following: "37-65-202,"
Strike: "37-68-102, 37-68-103,"

3. Page 1, line 29.
Strike: "40 and 41"
Insert: "38 and 39"

4. Page 13, lines 8 and 9.
Following: "~~20%~~" on line 8
Strike: the remainder of line 8 through trade-in on line 9
Insert: "the actual cost of dispensing the hearing aid or related device to the purchaser. This cost must be substantiated by the dispenser, and regardless of the length of the trial period, the dispensing fee may not exceed 15% of the total cost of the hearing aid or related device."

5. Page 16.
Following: line 18
Insert: "(a) prescribe, dispense, or administer any legend drug, as defined in 50-31-301, except for whole gland thyroid; homeopathic preparations; the natural therapeutic substances, drugs, and therapies described in subsection (2); and oxytocin (pitocin), provided that the naturopathic physician may administer but may not prescribe or dispense oxytocin (pitocin);"
Renumber: subsequent subsections

6. Page 26, line 9 through line 1 on page 27.
Strike: section 37 in its entirety
Renumber: subsequent sections

7. Page 27, line 3 through line 3 on page 28.
Strike: section 38 in its entirety
Renumber: subsequent sections

8. Page 32, line 30.
Following: "Section"
Strike: "39"
Insert: "37"

9. Page 33, line 1.
Following: "section"
Strike: "39"
Insert: "37"

10. Page 33, lines 2 and 3.
Strike: "40 and 41"
Insert: "38 and 39"

EXHIBIT 9 10
DATE 1/22/97
HB 164

Amendments to House Bill No. 164
First Reading Copy

Requested by Rep. Prouse
For the Committee on Business and Labor

Prepared by Stephen Maly
January 20, 1997

1. Title, line 11.
Following: "37-26-301,"
Insert: "37-29-303,"

2. Page 1, line 29.
Strike: "40 and 41"
Insert: "41 and 42"

3. Page 17, line 19.
Insert: "**Section 25.** Section 37-29-303, MCA, is amended to read:

"**37-29-303. Application for license.** Upon application and payment of the appropriate fee, except as provided in subsection (3), the board shall issue a license to practice denturitry to any applicant who meets the following criteria and scores a passing grade on the examination for licensure:

(1) documentation that the applicant has completed formal training of not less than 2 years at an educational institution accredited by a national or regional accrediting agency recognized by the Montana state board of regents, the curriculum of which includes courses in head and oral anatomy and physiology, oral pathology, microbiology, partial denture construction and design, clinical dental technology, radiology, dental laboratory technology, asepsis, clinical jurisprudence, and medical emergencies, including cardiopulmonary resuscitation; and

(2) documentation that the applicant:

(a) has completed 1 year of internship under the direct supervision of a licensed denturist; or

(b) has 3 years of experience as a denturist under licensure in another state or Canada.

(3) Notwithstanding the provisions of subsections (1) and (2), the board may issue a license to a person who has previously been licensed under the provisions of this chapter but whose license has expired. Before issuing the license, the board may require:

(a) a clinical practical examination of competency; or

(b) documentation verifying that the person seeking the license has completed continuing education courses that constitute, in the board's judgment, practical training that is substantially equivalent to the 3 years of experience required in subsection (2)(b)."""

{*Internal References to 37-29-303:*
37-29-302x *37-29-302x* *37-29-305x*}

Renumber: subsequent sections

4. Page 32, line 30.
Following: "Section"
Strike: "39"
Insert: "40"

5. Page 33, line 1.
Following: "section"
Strike: "39"
Insert: "40"

6. Page 33, lines 2 and 3.
Strike: "40 and 41"
Insert: "41 and 42"

EXHIBIT 11
DATE 1/22/97
HB 164

Amendments to House Bill No. 164
First Reading Copy

Requested by Rep. Simon
For the Committee on Business and Labor

Prepared by Stephen Maly
January 20, 1997

1. Page 17, line 3.
Following: "pharmacist"
Strike: "nominated"

2. Page 17, line 4.
Strike: "by the Montana pharmaceutical association"

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

BUSINESS AND LABOR COMMITTEE

DATE 1/22/97 BILL NO. 164 Amendment NUMBER

MOTION: Prouse

NAME	AYE	NO
Bruce Simon, Chairman	X	
Paul Sliter, Vice Chairman	X	
Bob Pavlovich, Vice Chairman	X	
Joe Barnett	X	
Rod Bitney	X	
Sylvia Bookout	X	
Charles Devaney	X	
David Ewer		X
Kim Gillan		X
Billie Krenzler		X
Bob Lawson	X	
Rod Marshall	X	
Gay Ann Masolo	X	
Wes Prouse	X	
Carolyn Squires		X
Jay Stovall		X
Cliff Trexler		X
Joe Troplia		X
Carley Tuss		X

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

BUSINESS AND LABOR COMMITTEE

DATE 1/22/97 BILL NO. 164 Gov. Amend NUMBER

30 days to 1 yr.

MOTION:

NAME	AYE	NO
Bruce Simon, Chairman		X
Paul Sliter, Vice Chairman		X
Bob Pavlovich, Vice Chairman	X	
Joe Barnett	X	
Rod Bitney	X	
Sylvia Bookout	X	
Charles Devaney		X
David Ewer	X	
Kim Gillan		X
Billie Krenzler		X
Bob Lawson		X
Rod Marshall	X	
Gay Ann Masolo	X	
Wes Prouse	X	
Carolyn Squires		X
Jay Stovall		X
Cliff Trexler		X
Joe Troplia	X	
Carley Tuss		X

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL DATE 1/22/97

NAME	PRESENT	ABSENT	EXCUSED
Bruce Simon, Chairman	✓		
Paul Sliter Vice Chairman	✓		
Bob Pavlovich, Vice Chairman	X	@ 10:00 am	✓
Joe Barnett	✓		
Rod Bitney	✓		
Sylvia Bookout	✓		
Charles Devaney	✓		
David Ewer	✓		
Kim Gillan	✓		
Billie Krenzler	✓		
Bob Lawson	✓		
Rod Marshall	X		✓
Gay Ann Masolo	✓		
Wes Prouse	✓		
Carolyn Squires	✓		
Jay Stovall	✓		
Cliff Trexler	✓		
Joe Tropila	✓		
Carley Tuss	✓		

Processors are thinking of a full range of things. They would start with flour milling and work all the way up to the baking and retailing.

SEN. STEVE BENEDICT asked how much money had been raised so far? **Mr. Bold** stated about $15 million. Each member has put up $5000.

SEN. EMERSON asked that a lot of exemptions were mentioned and wondered if the Dept. has extended exemptions to many companies? **Ms. O'Halloran** said that the list of exemptions has gotten longer.

SEN. BENEDICT asked if "buyer beware" is mentioned in the prospectus or somewhere else and asked if people could lose more than their $5000? **Mr. Bold** stated that in the bill the only thing being asked for is an exemption for the registration in order to present the securities. Those who come in know the business and the risks.

SEN. BENEDICT then asked that in addition to the $5000 being at risk, are they at risk for anymore if the venture goes into default? **Mr. Bold** said that they are not selling the farm, only what they are putting up front. The group will raise the capital first and then put the project together. No one is signing a blanket liability for their assets for those who choose to participate. The shares stand on their own. **SEN. BENEDICT** asked **Ms. O'Halloran** the same question. She answered that the sale of the security is the investment that is at risk. In terms of the liability that the co-op would experience if things would turn sour for them, the investors would not be liable for the liability. She would check that to be sure she was giving the correct answer. **SEN. BENEDICT** asked then who would be liable if the investors are not liable? **Ms. O'Halloran** was not certain about that. **Randy Johnson, Executive Vice President, MT Grain Growers Assoc.** said that it was his understanding that the risk is similar to a limited partnership except that the members of the cooperative have at risk their initial investment and to the degree that they want the company to succeed. Certainly United Spring Wheat Processors could someday get into a position where it would go to its members and ask for additional monies. If they were unwilling to put in more money, he was not sure who the liability would fall on. **SEN. BENEDICT** said that no one could answer his question.

Closing by Sponsor:

The sponsor did not close.

{Tape: 1; Side: A; Approx. Time Count: 9:24 AM; Comments: N/A.}

HEARING ON HB 164

Sponsor: **REP. CARLEY TUSS, HD 46, BLACK EAGLE**

Proponents: **Steve Meloy, Bureau Chief, Professional & Occupational Licensing Bureau, Dept. of Commerce**
Kim Anderson, Board of Dentistry
David Henian, Executive Director, MT Dental Assoc.
A. Farrell Rose, Board of Appraisers
Mona Jamison, MT Physical Therapy & MT Speech/Language Assoc.
Michael Bergkamp, MT Alternative Health Assoc.

Opponents: **None**

Opening Statement by Sponsor:

REP. CARLEY TUSS, HD 46, BLACK EAGLE. SB 164 was requested by the Department of Commerce. In 1995, we brought forth a uniform bill that gave due process to all members who were licensed and had professional board guiding. This bill brings those persons who are licensed in occupations not necessarily with board guidance into the same kind of arena. The first twelve sections of this bill deal with due process toward those persons who hold those occupational licenses. It then spells out the complaint process, investigation process, the appeal process, etc. Additionally the last portion of the bill does deal with specific board issues. The Board of Dentistry is included and there have been some changes in the composition of that Board. Hearing aid dispensers have been included and for the most part, the changes in that section are consumer protection issues. The naturopaths are dealt with in section 24 and their request is to have a formulary of what they are authorized to prescribe. There are changes for the real estate appraisers and primarily these are codifications. These are important to the different boards. There have been some changes in the House and would call your attention to these. On page 18, a section has been deleted and that dealt with an amendment that had been placed by a denturist. On pages 27 and 28, it originally was to allow electricians to do installations of low-voltage electrical systems. In reviewing those sections it was calling for scopes tests to be utilized. Historically, the plumbers have always done low voltage work and that scopes tests deal with temperature variations. The electricians did not understand what a scopes test was. It was therefore prudent to delete those two sections. There are people here to speak on behalf of this bill.

Proponents' Testimony:

Steve Meloy, Bureau Chief, Professional & Occupational Licensing Bureau, Dept. of Commerce. When HB 518 passed in 1995, we promised that you would see less of POL. In that regard, the Dept. took all of the requests from the 38 programs that we have and consolidated them all into one bill. That is this bill, HB 164. We like to support and forward to the Governor and the Legislature bills which are not controversial. My assessment is that this bill meets that requirement. We have here today a

staff, board members and chairmen who can answer any questions that you might have. I would like to offer one amendment **(EXHIBIT 4)** on behalf of the Board of Barbers to the committee. The Board of Barbers had submitted some legislation to the Dept. which the Dept. felt might not have met the above test and would have been controversial. They asked as a requirement that a barber have a high school education. We said no. The barbers did not have enough time to get a bill presented so they asked if we would put into this bill the things that the Dept. felt met their criteria. **REP. TUSS** allowed this amendment to be added. Essentially, the amendment is housekeeping in nature. It clarifies their authority.

Kim Anderson, Board of Dentistry. Our Board fully supports this bill before you. I would offer a letter **(EXHIBIT 5)** from Dr. Donald O. Nordstrom, Chairman, Board of Dentistry into the minutes outlining their support.

David Henian, Executive Director, MT Dental Assoc. I am pleased to tell you that we support this bill that will allow an additional dental hygienist to the Board of Dentistry. A letter from the Montana Dental Hygienists' Association **(EXHIBIT 5A)** is being handed in as support for HB 164.

A. Farrell Rose, MT Board of Real Estate Appraisers. We are in support of this bill.

Mona Jamison, MT Physical Therapy Assoc. & MT Speech, Language and Hearing Assoc. We stand in strong support of this bill. It does allow for the exams to be taken by computer. The significant changes are the ones that relate to hearing aids and hearing aid dispensers. Audiologists are the only group that need two licenses before they can enter their profession. They must be licensed by the Board of Speech, Language and Hearing and the Hearing Aid Dispensers. On page 13 there is much for the protection of the consumers. We believe that these provisions are important. Many times for the older consumers, it is necessary that they have the opportunity to try the hearing aids out and if they are not workable after a time of trial be able to return the hearing aid at least for a portion of their expenditure. Thank you.

Michael Bergkamp, Chair, Alternative Health Care Board. On page 16, we are trying to put together a formulary committee that will make a list of what is available for the naturopath physician to prescribe. Currently it is very vague language. The communication between the pharmacy, the naturopath and the patient was not always clear with what the prescription actually was. The committee would consist of two naturopaths, one medical doctor, one public member and one pharmacist. This way would allow the circle of communication to work. This model has worked in other states.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. BENEDICT asked if there is a standardization among these boards concerning complaints, investigations, conduct standards, etc. **Mr. Meloy** said that this is exactly what is driving this bill--to get standardization on this issues. **SEN. BENEDICT** asked if the boards are looking more at "shall" than at "may". They need some latitude, but they should definitely have standardization. **Mr. Meloy** responded that as far as policy procedure goes, this is where they are headed; but the board still has some discretion.

SEN. EMERSON asked if the Federal Drug Administration is getting too much into the control of herbal medications? **Mr. Bergkamp** replied that no, not really. If it is a controlled substance, they would always be involved and we would always come under the same rules and regulations. But with herbs in particular, there is a move to bring standards up and its claims to be substantiated. This bill does not address this specifically.

SEN. EMERSON asked about fire suppression systems and the rules that are being set up concerning them. A constituent has been having trouble in getting a license for one of their employees. **Mr. Jerry Driscoll** stated that the installers must be licensed but they do not have a board. The Dept. sets the rules in how to get the license. **SEN. EMERSON** then asked another question about how to get a license.

{Tape: 1; Side: B; Approx. Time Count: 9:49 AM; Comments: N/A.}

Mr. Meloy asked that **Carol Grell, Staff Attorney, Dept. of Commerce,** answer the follow-on question of **SEN. EMERSON. Ms. Grell** stated that the NICIT certification is the standard testing. When the program came over from the Dept. of Justice, the rules were changed and the Dept. of Commerce set up elements of the NICIT certification and these are presently contained in a rule. Each of those elements must be met for whatever level of endorsement a person is seeking. It has been brought to the program managers attention that those endorsements are not a standardized way of testing so the rule has been identified as problematic and what we are currently doing is seeking information on how it needs to be amended because all of the elements are not necessary for certification within each endorsement, yet our rule sets it up that way. It appears that we have a standard higher than the national standard.

SEN. EMERSON asked how soon these changes can be made because a company in Bozeman is having serious problems in getting an employee certified. **Ms. Grell** said that the rules have not yet been amended and we need to complete our research to make sure we are not diluting our rules too far and that the rules are made according to statute. It is probably several months away. **SEN.**

EMERSON said that the rules need to get changed right away--not in several months. Maybe something should be done in this bill.

SEN. DEBBIE SHEA asked about the examinations that the boards develop and wondered if the Dept. has any say in this? **Mr. Meloy** replied that the boards have the discretion on how they are going to examine their applicants. They have been encouraged to utilize testing agencies nationally. **SEN. SHEA** continued with a question concerning coordination of efforts with those who are administering or developing these tests. **Mr. Meloy** said yes there is a coordination. They are in contact with those in the field to make sure that what they are asking is germane to certain areas of expertise. Accommodations are made to handle those applicants who do not take written tests well. Oral tests are encouraged if necessary.

Closing by Sponsor:

REP. TUSS closed. Thank you for a good hearing. Standardization is important and this bill is a continuation of HB 518 concerning the due process, the complaint, the appeal, the investigation, etc. I ask the committee to support the bill and the amendments. I would resist other amendments.

{Tape: 1; Side: B; Approx. Time Count: 10:06 AM; Comments: A 12 MINUTE BREAK WAS TAKEN.}

HEARING ON HB 214

Sponsor: **REP. ED GRADY, HD 55, CANYON CREEK**

Proponents: **Jean Riley, Petroleum Tank Release Compensation Board**
Denise Mills, Department of Environmental Quality
Ronna Alexander, MT Petroleum Marketeers

Opponents: **None**

Opening Statement by Sponsor:

REP. ED GRADY, HD 55, CANYON CREEK. I bring you this morning HB 214. This bill authorizes the board to request and receive loans from the Board of Investments. Projections indicate the Petroleum Tank Release Cleanup Fund will reach a zero balance before the next legislative session. The bill keeper of the board could borrow money and will allow the board to continue to reimburse the corrective action costs of petroleum storage tanks which in turn will allow owners to continue with their corrective action on sites. The bill further defines a corrective action which would be reimbursed by the board. It will allow the board to reimburse for corrective action costs associated with petroleum release from an eligible petroleum storage tank even if the contamination is intermingled with non-petroleum waste. The board would determine the costs associated with the petroleum

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 5
DATE 3-4-97
BILL NO. H B 164

MONTANA DEPARTMENT OF COMMERCE

Professional and Occupational Licensing Bureau
111 North Jackson PO Box 200513
Helena, MT 59620-0513

Phone: (406) 444-3737
FAX: (406) 444-1667
TDD: (406) 444-2978

March 3, 1997

Senator John R. Hertel, Chairman
Business and Industry Committee

Re: House Bill #164

Dear Senator Hertel,

A portion of House Bill #164 will affect the Board of Dentistry. This bill will change the membership and voting composition of the Board by adding a second hygienist as a voting member and by also making the 5th dentist a voting member (as opposed to the current status of the 5th dentist being a non-voting member). The Board supports the bill. The workload of the single hygienist on the Board has become a burden and the addition of another hygienist will help greatly. It will also provide greater representation and input on hygiene issues which come before the Board. At the same time making the 5th dentist a voting member, allows that person full participation on Board activities, while maintaining voting balance.

Both the Montana Dental Association and the Montana Dental Hygiene Association support this bill as presented.

We, the Board, would ask that you also support this bill. Thank you.

Respectfully yours,

Donald O. Nordstrom, D.D.S.
Chairman, Board of Dentistry

Montana Dental Hygienists' Association

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 5A
DATE 3-4-97
BILL NO. H B 164

MONTANA DENTAL HYGIENISTS ASSOCIATION
Testimony, Senate Business & Industry Committee
Tuesday, March 4, 1997

The Montana Dental Hygienist's Association, the only professional association representing dental hygienists in Montana, strongly supports passage of House Bill 164.

Section 13 of the bill amends the statutes pertaining to the Board of Dentistry as follows: one voting dentist will be added for a total of five, one hygienist will be added for a total of two. The remainder of the board will continue as previously constituted with one denturist and two public members. The board total will change from 9 to 10 members.

There are approximately 324 dental hygienists, 478 dentists and 13 denturists who are currently practicing in Montana. House Bill 164 is a step toward reaching equal representation of dental hygienists on the Board of Dentistry and we support the effort. However, we urge the committee to evaluate the efforts made by states such as New Mexico, where a committee of Dental Hygiene is established within the Board of Dentistry--allowing registered dental hygienists to monitor and enforce regulations of their specific profession.

The primary goal of our membership is to ensure the safest and most professional health services to the public. We urge passage of House Bill 164.

MONTANA SENATE
1997 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL DATE 3-4-97

NAME	PRESENT	ABSENT	EXCUSED
WILLIAM CRISMORE	X		
CASEY EMERSON	X		
BEA MC CARTHY	X		
DEBBIE SHEA	X		
STEVE BENEDICT, VICE CHAIRMAN	X		
JOHN HERTEL, CHAIRMAN	X		

SEN:1997
wp.rollcall.man
CS-09

DATE 3-4-97

SENATE COMMITTEE ON Sen Bus + Ind

BILLS BEING HEARD TODAY: HB 164; HB 185
HB 214

< ■ > **PLEASE PRINT** < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Cheryl VanEvery	Board of RE Appr	164	X	
Roger Jacobson	" "	"	X	
Darrell Kloe	Board of RE Appraisers	164		
Jean A. Riley	Public Taxidermist Licensing Comp Bd	HB 214	X	
Randy Johnson	MT Grain Growers Assn	HB 185	✓	
Robert Bobel	MT Grain Growers Assn	HB 185	✓	
David Hemion	MT Dental Assoc.	HB 164	✓	
Donna Alexander	MT Pet. Marketing	HB 214	X	
Dr Michael Berglund	Board of Alt Health	164	X	
Jim Smith	Mt. Pharm Assn.	164	X	
Mona Jamison	Mt PT Association MT Speech/Lang Assn	164	X	
Ralph Peck	Mt Dept of Ag.	185	X	
Beth O'Halloran	State Auditors Office	185	X	
Denise Mills	DEQ	214	X	
Kim Anderson	Board of Pharmacy	164	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

Closing by Sponsor:

REP. HARPER closed. In the House committee after we had discussed this, there was really no opposition. I believe the concept has been on the books for a long time. People accept the concept and it is a valuable one. It is just that this loophole has prevented it from really being effective if someone wanted to avoid the intent. But the fact is, if someone has their heart set on building in a certain place, they could avoid the law. Thank you for your time and I urge a do concur.

{Tape: 2; Side: A; Approx. Time Count: 10:51 AM; Comments: A 3 MINUTE BREAK WAS TAKEN.}

EXECUTIVE ACTION ON HB 164

Motion: **SEN. DEBBIE SHEA MOVED HB 164 BE CONCURRED IN.**

Amendments: **SEN. DEBBIE SHEA MOVED TO AMEND HB 164 (EXHIBIT 3) hb016401.abc.**

Discussion: **Bart Campbell** explained the bill. The barbers were added to the bill. Fire protection equipment installers were added to the bill on page 3, section 43, subsection 3(b). The electricians in connection with fire protection equipment were added into the bill and **SEN. WILLIAM GLASER** is in agreement with that amendment to the bill. **REP. TUSS** had been contacted on all amendments and was in agreement with them.

Vote: **THE MOTION TO AMEND HB 164 CARRIED UNANIMOUSLY: 6-0**

Motion/Vote: **SEN. BEA MCCARTHY MOVED HB 164 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY: 6-0**

EXECUTIVE ACTION ON SJ 14

Motion/Vote: **SEN. MCCARTHY MOVED SJ 14 DO PASS. THE MOTION CARRIED UNANIMOUSLY: 6-0**

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3
DATE 3-18-97
BILL NO. HB 164

Amendments to House Bill No. 164
Third Reading Copy

Requested by Senator Shea
For the Committee on Business and Industry

Prepared by Bart Campbell
March 3, 1997

1. Title, line 6.
Following: "~~DENTURISTS~~"
Insert: "BARBERS,"

2. Title, line 7.
Following: "INVESTIGATORS,"
Insert: "FIRE PROTECTION EQUIPMENT INSTALLERS,"

3. Title, line 11.
Following: "~~37-29-303,~~"
Insert: "37-30-203, 37-30-307,"

4. Title, line 13.
Following: "~~37-68-103~~"
Insert: "50-39-101, 50-39-102,"
Following: "~~AND~~"
Insert: "AND"

5. Page 1, line 30.
Strike: "38 AND 39"
Insert: "40 and 41"

6. Page 2, following line 1.
Insert: "A statement of intent is also required for this bill because it directs the board of barbers to adopt rules pertaining to instructor and license applicants' qualifications, examination, and registration, to adopt rules pertaining to barber schools' curriculum and qualification, to adopt rules pertaining to supervision of barber students, and to adopt rules pertaining to the inspection and conduct of persons and barbershops subject to the provisions of Title 37, chapter 30."

7. Page 18, following line 18.
Insert: "

Section 25. Section 37-30-203, MCA, is amended to read:
"**37-30-203. Powers and duties of board and department -- conducting examinations -- rulemaking -- hiring of inspectors.** (1) The department shall, subject to 37-1-101, conduct practical examinations of applicants for certificates of registration to practice as registered barbers or barber instructors not less than four times a year at times and places the board determines. The examinations ~~shall~~ must cover the fundamentals of barbering, dermatology, and sanitation. The department shall issue certificates of registration.

(2) The board may adopt rules for the administration of this chapter and shall adopt rules pertaining to the following:

(a) the qualification, examination, and registration of license and instructor applicants;

(b) the qualification, curriculum, and operating standards for barber schools, including the supervision of barber students; and

(c) the inspection and conduct of persons and barbershops subject to the provisions of Title 37, chapter 30.

(3) A person hired by the department to make an inspection of a barbershop, school, or college shall receive a salary plus travel expenses as provided for in 2-18-501 through 2-18-503, as amended."

Section 26. Section 37-30-307, MCA, is amended to read:

"**37-30-307. Fees -- handicapped persons exempted -- other fees prohibited.** (1) The fee to be paid by an applicant for an examination to determine the applicant's fitness to receive a certificate of registration to practice barbering and for the issuance of the certificate must be prescribed by the board.

(2) A person registered as a barber shall, before the expiration date established by rule of the department, annually pay a license fee, set by the board based on clerical and administrative costs, for the renewal of the person's certificate of registration. ~~If a barber fails to have the certificate renewed before the expiration date, the barber shall on renewal of the certificate of registration pay a penalty prescribed by the board in addition to the regular renewal fee. If a certificate of registration is not renewed within 1 year after the date of expiration, the barber is not entitled to have the certificate of registration renewed or a new certificate of registration issued without first applying for and taking the examination and paying the fees provided for in this section.~~

(3) However, physically handicapped persons trained for the barber profession by the department of public health and human services and certified by that department as having graduated from a barber college licensed by the board are not required to pay fees and are for a period of 1 year immediately following their training exempt from all except the sanitary provisions of this chapter.

(4) Another or an additional license or fee may not be imposed on barbers by a municipality or other subdivision of this state.""

Renumber: subsequent sections

8. Page 32, following line 3.
Insert: "

Section 42. Section 50-39-101, MCA, is amended to read:

"**50-39-101. License and endorsements required.** (1) A person or entity shall obtain a license from the department of commerce before engaging in the business of servicing fire extinguishers or before engaging in the business of selling,

servicing, or installing fire alarm systems, special agent fire suppression systems, or fire extinguishing systems. Each individual, except an apprentice, employed by the licensee to perform services under the license shall obtain from the department an endorsement to sell, service, or install:

(a) fire alarm systems;

(b) special agent fire suppression systems; or

(c) fire extinguishing systems.

(2) The license and endorsement or endorsements must be prominently displayed at the business premises, and copies must be carried by the person conducting each installation or servicing and must be shown to anyone requesting to see them.

(3) It is a misdemeanor to knowingly or purposely service a fire extinguisher or sell, service, or install a fire alarm system, special agent fire suppression system, or fire extinguishing system without the required license and endorsement.

(4) Nothing in this chapter may be construed to prohibit a licensed electrician, practicing within the scope of practice of electricians, as provided in Title 37, chapter 68, from installing components of fire protection equipment if the the installation is inspected and approved by an individual endorsed to sell, service, or install fire protection equipment."

Section 43. Section 50-39-102, MCA, is amended to read:

"**50-39-102. Application for license and endorsements.** (1) An application for a license and any endorsements must be made on a form prescribed by the department of commerce.

(2) The department shall annually issue a license and endorsement to an applicant who:

(a) submits satisfactory proof that the applicant is properly equipped and staffed to provide the sales or services to be licensed and endorsed; and

(b) submits satisfactory proof that the applicant is insured to engage in the business covered by the license and endorsement or endorsements.

(3) The department shall:

(a) issue an endorsement to an applicant who scores a passing grade on an examination devised or approved by the department; ~~and~~

(b) issue an endorsement to an applicant who has been issued a letter of certification, specific to the endorsement being sought, from any national testing agency approved by the department; and

~~(b)~~(c) annually renew the endorsement upon payment of the endorsement fee and submission of satisfactory proof that the endorsee has completed continuing education, training, or testing required by the department.""

Renumber: subsequent sections

9. Page 33, line 30.
Strike: "37"
Insert: "39"

10. Page 34, line 1.
Strike: "37"
Insert: "39"

11. Page 34, lines 2 and 4.
strike: "38 AND 39"
Insert: "40 and 41"

MONTANA SENATE
1997 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL DATE 3-18-97

NAME	PRESENT	ABSENT	EXCUSED
WILLIAM CRISMORE	X		
CASEY EMERSON	X		
BEA MC CARTHY	X		
DEBBIE SHEA	X		
STEVE BENEDICT, VICE CHAIRMAN	X		
JOHN HERTEL, CHAIRMAN	X		

SEN:1997
wp.rollcall.man
CS-09

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill 164 (third reading copy -- blue), respectfully report that House Bill 164 be amended as follows and as so amended be concurred in.

Signed: John Hertel
Senator John R. Hertel, Chair

That such amendments read:

1. Title, line 6.
Following: "~~DENTURISTS,~~"
Insert: "BARBERS,"

2. Title, line 7.
Following: "INVESTIGATORS,"
Insert: "FIRE PROTECTION EQUIPMENT INSTALLERS,"

3. Title, line 11.
Following: "~~37-29-303,~~"
Insert: "37-30-203, 37-30-307,"

4. Title, line 13.
Following: "~~37-68-103,~~"
Insert: "50-39-101, 50-39-102,"
Following: "~~AND~~"
Insert: "AND"

5. Page 1, line 30.
Strike: "38 AND 39"
Insert: "40 and 41"

6. Page 2, following line 1.
Insert: "A statement of intent is also required for this bill because it directs the board of barbers to adopt rules pertaining to instructor and license applicants' qualifications, examination, and registration, to adopt rules pertaining to barber schools' curriculum and qualification, to adopt rules pertaining to supervision of barber students, and to adopt rules pertaining to the inspection and conduct of persons and barbershops subject to the provisions of Title 37, chapter 30."

Amd. Coord.
Sec. of Senate

Senator McCarthy
Senator Carrying Bill

591321SC.SRF

7. Page 18, following line 18.
Insert: "

Section 25. Section 37-30-203, MCA, is amended to read:
"**37-30-203. Powers and duties of board and department -- conducting examinations -- rulemaking -- hiring of inspectors.** (1) The department shall, subject to 37-1-101, conduct practical examinations of applicants for certificates of registration to practice as registered barbers or barber instructors not less than four times a year at times and places the board determines. The examinations ~~shall~~ must cover the fundamentals of barbering, dermatology, and sanitation. The department shall issue certificates of registration.

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(2) A person registered as a barber shall, before the expiration date established by rule of the department, annually pay a license fee, set by the board based on clerical and administrative costs, for the renewal of the person's certificate of registration. ~~If a barber fails to have the certificate renewed before the expiration date, the barber shall on renewal of the certificate of registration pay a penalty prescribed by the board in addition to the regular renewal fee. If a certificate of registration is not renewed within 1 year after the date of expiration, the barber is not entitled to have the certificate of registration renewed or a new certificate of registration issued without first applying for and taking the examination and paying the fees provided for in this section.~~

(3) However, physically handicapped persons trained for the barber profession by the department of public health and human services and certified by that department as having graduated from a barber college licensed by the board are not required to pay fees and are for a period of 1 year immediately following their training exempt from all except the sanitary provisions of this chapter.

(4) Another or an additional license or fee may not be imposed on barbers by a municipality or other subdivision of this state.""

Renumber: subsequent sections

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(3) The department shall:

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(b) issue an endorsement to an applicant who has been issued a letter of certification, specific to the endorsement being sought, from any national testing agency approved by the department; and

~~(b)~~ (c) annually renew the endorsement upon payment of the endorsement fee and submission of satisfactory proof that the endorsee has completed continuing education, training, or testing required by the department.""

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Strike: "37"
Insert: "39"

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strike: "38 AND 39"
Insert: "40 and 41"

-END-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON HOUSE BILL 164

Call to Order: By **CHAIRMAN JOHN HERTEL**, on April 16, 1997, at 1:02, in Room 420.

ROLL CALL

Members Present:
Rep. Rod Marshall (R)
Rep. Carley Tuss (D)
Rep. Rod Bitney (R)
Sen. John R. Hertel (R)
Sen. C.A. "Casey" Emerson (R)
Sen. Bea McCarthy (D)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Services Division
Elaine Benedict, House Committee Secretary

HEARING ON HB 164

Sponsor: **REP. CARLEY TUSS, House District 46, Black Eagle.**

Opening Statement by Sponsor:

REP. TUSS.

EXHIBIT 1

{Tape: 1; Side: A; Approx. Time Count: 0.8; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 1; Side: A; Approx. Time Count: 3.6; Comments: BART CAMPBELL, LEGISLATIVE SERVICES DIVISION IS RESPONDENT DURING THIS PORTION OF QUESTIONING.}

EXECUTIVE ACTION ON HB 164

Amendments: hb016405.asm

Motion/Vote: **SEN. BEA MCCARTHY MOVED AMENDMENT HB016405.ASM DO PASS. Motion carried unanimously.**
{Tape: 1; Side: A; Approx. Time Count: 5.1; Comments: SEE EXHIBIT 1.}

Motion: **SEN. MCCARTHY MOVED HB 164, AS AMENDED, DO PASS.**
{Tape: 1; Side: A; Approx. Time Count: 5.7; Comments: None.}

Informational Testimony:

Mr. Campbell.
{Tape: 1; Side: A; Approx. Time Count: 10.7; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 1; Side: A; Approx. Time Count: 11.4; Comments: None.}

Informational Testimony:

Lynn Perkins, Officer and Incoming President National Independent Firearm Distributors; Private Businessman.
{Tape: 1; Side: A; Approx. Time Count: 13.2; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 1; Side: A; Approx. Time Count: 18.2; Comments: None.}

Informational Testimony:

R. Perry Eskridge, Attorney for Professional & Occupational Licensing, Department of Commerce.
{Tape: 1; Side: A; Approx. Time Count: 21.2; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 1; Side: A; Approx. Time Count: 23.9; Comments: None.}

Vote: **Motion carried unanimously.**
{Tape: 1; Side: A; Approx. Time Count: 24.9; Comments: None.}